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Report of the Secretary-General on the United Nations Mission of Support in East Timor

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1410 (2002), in which the Council decided to establish, as from 20 May 2002, for an initial period of 12 months, the United Nations Mission of Support in East Timor (UNMISET). In paragraph 13 of that resolution, the Security Council requested the Secretary-General to keep it closely and regularly informed of progress towards implementation of the resolution, including, in particular, progress towards achievement of the milestones in the mandate implementation plan. The present report describes the activities of UNMISET since my report dated 6 November 2002 (S/2002/1223).

2. A disturbing series of security-related incidents occurred in the Democratic Republic of Timor-Leste in the last months of 2002 and the early months of 2003. These were the subject of oral briefings to the Security Council on 4 and 13 December 2002 and 7 January 2003. In a special report dated 3 March (S/2003/243), a number of adjustments to the downsizing plan for UNMISET to allow the Mission to accomplish its mandated tasks within this changed environment were proposed. In resolution 1473 (2003), the Security Council endorsed proposals for the adjustment of the downsizing of the Mission's police component, supported a revised schedule for the downsizing of the military component, and requested a detailed military strategy for the revised schedule. The present report also responds to that request.

II. Political developments in Timor-Leste

3. The most striking development over the reporting period was the change noted above in the security environment. The search for a solution to these immediate problems should however be viewed in the context of the long-term process of establishing a viable independent State. The strengthening of Timor-Leste's political institutions and a non-political, professional administration, together with the progressive development of a culture of responsible governance and a tradition of pluralistic, democratic debate, are essential for the country's stability and social and economic progress. The continuing commitment of the Timorese leadership and the full support of the international community are essential if these processes are to succeed.

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4. The ratification on 10 December 2002 by the National Parliament of a package of six core international human rights treaties as well as four optional protocols was of particular importance as a symbol of the country's commitment to the promotion and protection of human rights. During the reporting period, the Government of Timor-Leste has emphasized the importance of more open, participatory and accountable governance. It has established a practice of dispatching Secretaries of State and Vice-Ministers to serve within outlying districts for extended periods, while senior Timorese officials have also undertaken more frequent visits to those areas.

5. The continuing efforts of the leadership of Timor-Leste to engage a wide variety of Timorese sectors in political debate are essential for the productivity and the stability of the country's political structure. On 25 January the President of Timor-Leste, Kay Rala Xanana Gusmão, sponsored a "National Dialogue" meeting in an attempt to address some of the issues and the demands of the Popular Defence Council of the Democratic Republic of Timor-Leste, a group that rejects the transitional process, claiming that it violates the sovereignty of the country. In response to continuing expressions of dissatisfaction by former combatants and veterans, commissions established by President Gusmão have begun an identification process as a step towards finding appropriate means to recognize their contribution to the country's independence. Meanwhile, eight opposition political parties with representation in the National Parliament recently signed a Protocol for the Establishment of the Platform of National Unity.

6. The Government has designated 2003 as the Year of Administrative Restructuring and Justice to emphasize those two broad areas of activity as priority concerns. On 10 February the Government recruited 65 new administrators at the sub-district level. While these appointments are expected to improve the delivery of services, the fact that the overwhelming majority of those appointed belong to the ruling party, Fretilin, has given rise to concerns that this could favour a more political character in the administration, and has highlighted the importance of a non-political selection process. Responsibilities for State administration and the interior were divided between two separate ministries during the month of February. Proposals for the election of chiefs of smaller administrative (or Suco) units are being discussed within the Government.

7. Continuous progress has been made in the development of the relationship between Indonesia and Timor-Leste. In February the new Ambassador of Timor-Leste assumed his duties in Jakarta, while Indonesia has indicated that it will soon replace its current Representative Office in Dili with a formal embassy. The technical group for demarcation and regulation of the border between Indonesia and Timor-Leste, which includes members from both countries, met in Dili from 18 to 20 March 2003, following the initial postponement referred to in my special report. That meeting suggested that approximately 80 per cent of the boundary between the countries could be agreed relatively easily after joint field verification. It nonetheless remains uncertain that Indonesia and Timor-Leste will reach agreement by 30 June 2003 on a line that constitutes the border, despite their formal commitment to that objective. Progress will depend upon additional efforts by the two countries, and will also require external assistance for the conduct of field surveys and other technical tasks.

8. Furthermore, while other technical groups have prepared for signature draft arrangements that would establish a soft border regime, regulate markets in the border areas, and facilitate information exchange between police forces along the border, there has been little progress towards the implementation of the previous agreement on the establishment of a bus service to link the Oecussi enclave with the rest of Timor-Leste, and on the informal arrangement that would allow residents of Oecussi to cross into neighbouring areas of West Timor without passports or visas. For both economic and humanitarian reasons, it is imperative that an additional effort be made to resolve these issues.

9. In the long term, relations between Indonesia and Timor-Leste will also be enhanced by bringing to justice those in the two countries who are accused of serious crimes committed in 1999; again, political commitment is essential if this objective is to be achieved.

10. The Government of Timor-Leste has also continued its efforts to develop its relationship with other States in the region and beyond. Timor-Leste joined the Movement of Non-Aligned Countries at the summit held in Kuala Lumpur in February and is expected to become a regional member of the Economic and Social Commission for Asia and the Pacific on 30 April.

11. Significant progress on agreements concerning petroleum resources should help pave the way for the further economic development of Timor-Leste. On 6 March, Timor-Leste and Australia concluded the International Unitisation Agreement on the Greater Sunrise field, straddling the Joint Petroleum Development Area in the Timor Gap, on the understanding that the Agreement does not prejudice their positions in the maritime boundary negotiations. Also during the reporting period, on 2 April, Australia and Timor-Leste ratified the Timor Sea Treaty, providing, inter alia, for the sharing of revenues from the Treaty area between the two countries, 90 per cent being awarded to Timor-Leste. The income from these developments will constitute a crucial element in the country's future revenues and, with careful management by the Government, can represent a key resource to support the well-being of the population and the economic and social success of the country.

III. Contribution of the United Nations

A. Contribution of the Mission

12. During the reporting period, UNMISET, in consultation with the Government and people of Timor-Leste and in cooperation with bilateral donors, continued to work towards the objectives identified in the mandate implementation plan. It is however apparent that, in a number of areas, further assistance will be required to complete the tasks being undertaken by UNMISET. As indicated below, the role of bilateral contributions will become increasingly important as the Mission works to support a transition to a normal development framework.

Programme I
Stability, democracy and justice

1. Support for the public administration of Timor-Leste

13. The public administration of Timor-Leste has continued to develop during the reporting period. The Government has filled nearly 15,000 of 16,000 budgeted posts within the administration, which is showing increasing readiness to assume its full responsibilities. The availability of mid-level managers is limited across the entire spectrum of public administration, however, while the lack of enabling legal frameworks, institutionalized administrative systems and operating procedures continues to represent a serious hurdle, as does the relative scarcity of essential skills and capacity.

14. The advisers in the UNMISET Civilian Support Group continue to play a crucial role by transferring knowledge and skills to Timor-Leste counterparts, in addition to supporting the functioning of the administration when this is essential. Advisers are serving the Government of Timor-Leste in 15 ministries and offices. UNMISET monitors their progress in achieving tasks outlined in a work plan that is prepared in consultation with Government supervisors. To maximize the benefits acquired by Timorese officials, civilian advisers are expected to mentor the available group of officers even though they may not technically be counterparts. Language training is being provided to advisers to enhance their impact.

15. In accordance with the Mission's mandate implementation plan, the Civilian Support Group is scheduled to complete most of its activities in the areas of essential services and legal systems in November. At that time, it is expected to implement a 30 per cent reduction, while its remaining functions in the areas of financial and central services, as well as internal services, are scheduled to end by May 2004. In order to promote a smooth process of reduction and withdrawal, advisers have been charged with developing manuals and standard operating procedures as a legacy that can be consulted by Timorese civil servants in the future, and can be used for training by the Timorese Civil Service Academy.

16. Further assistance will be required in a number of areas even after the Civilian Support Group completes its work. In this context, UNMISET, in consultation with the Government of Timor-Leste and the United Nations Development Programme (UNDP), is elaborating a strategic plan that identifies areas of need where bilateral support may be required following the withdrawal of the various advisers, and proposes a road map for the further development of critical skill and capacity. The plan is scheduled for release by mid-2003, with a view to facilitating the progressive replacement of civilian advisers with bilaterally funded counterparts as required, in order to maintain continuity of training.

17. The experience of Timor-Leste highlights the problems that can be posed by reliance upon bilateral contributions, however. Approximately a year ago, the Government identified a crucial need for the provision of 228 development advisers, beyond the 100 advisers within the Civilian Support Group. Of this total figure, only 48 have been provided to date, while as many as 130 such advisers may be present in the mission area by mid-2003 if donors fulfil all their undertakings in this regard. This would still leave a shortfall of some 100 posts deemed critical.

18. The functioning of Timor-Leste's justice system continues to be hampered by severe shortages of skilled and experienced professional personnel, and limited physical infrastructure. This has resulted in delays in the administration of justice, leading to prolonged pre-trial detention and detention without the necessary legal foundation, as well as overcrowding in the prisons and unrest among inmates. It has also favoured an increased reliance on the traditional dispute settlement mechanisms, even where they may not provide adequate protection for the rights of minorities, vulnerable groups and women.

19. In November 2002, building upon the UNMISET plan referred to in my previous report, the Government of Timor-Leste and UNDP conducted a review of the justice system with a view to identifying the areas most in need of support from the international community and to establish strategies to improve access to justice for the community. The review highlighted a number of serious concerns, including training needs, inadequate access to justice for the population, and lack of facilities and case management procedures. A comprehensive justice sector support programme is now being finalized; it is expected that considerable donor support will be needed.

20. The five-member Superior Council of the Magistracy, responsible for the appointment, promotion, discipline and dismissal of judges, was constituted in February 2003. This important body is not yet operational, however, since the President of the Court of Appeal, who would also serve as ex-officio President of the Superior Council, has not yet been sworn in. This has in turn prevented the formal appointment of two international judges to the Court of Appeal, which has not functioned since December 2001. At the time of reporting, 39 appeals are pending before the Court, including eight appeals from decisions of the Special Panels for Serious Crimes.

21. At the beginning of April 2003, Timor-Leste's three prisons held 344 inmates, the largest number, 238, being held at Becora; Gleno has 76 prisoners and Baucau 30. With regard to the recommendations of the joint assessment mission on corrections referred to in my previous report, there has been progress in the development of a project to establish a juvenile facility, and employment for long-term inmates is being facilitated through non-governmental efforts. However, other projects recommended by the Mission, including the development of a code of conduct for prison staff, the development of a mechanism to deal with breaches of discipline by inmates, transportation for social workers responsible for prisoner rehabilitation and the establishment of a prison oversight mechanism, as required by regulation 2001/23, on prisons, of the United Nations Transitional Administration in East Timor (UNTAET) have not yet been implemented. The main recommendation of the joint assessment mission, the creation of a National Corrections Commission with the aim of defining, formulating and establishing the strategic direction for the Prison Service, has not been accepted by the Government.

22. The Office of the Provedor for Human Rights and Justice, an independent institution provided for in the Constitution, is in the process of being established. While the drafting of the legislation that will define its mandate is not yet complete, it is likely to be given responsibility for safeguarding and promoting human rights, ensuring the transparency and accountability of public administration and fighting corruption. However, in order to be effective, the Provedor's office will require

substantial resources. I encourage the international community to support this critical institution, which will require substantial resources.

2. Assistance in the conduct of investigations of serious crimes

23. Free and fair trials, and impartial dispensation of justice, will be the key to reconciliation and will contribute to promoting of the rule of law in Timor-Leste. The Security Council has repeatedly emphasized the importance that it attaches to the successful completion of this process. International support remains crucial for the process of bringing to justice those responsible for serious crimes in 1999.

24. UNMISET assists this process through its Serious Crimes Unit, which is headed by an international Deputy Prosecutor General who reports functionally to the Timorese Prosecutor General. According to the mandate implementation plan for UNMISET, the Serious Crimes Unit was expected by the end of 2002 to complete its investigations into 10 priority cases, as well as 5 additional investigations into widespread patterns of serious violence. This process has been slower than had been hoped, owing to constraints in the justice system and a lack of specific resources, as indicated in my previous report (S/2002/1223). Progress has now been made, however, and indictments have been filed in 9 of the 10 priority cases. To date, 60 indictments have been filed against 247 persons, 141 of whom are accused of crimes against humanity; 19 of those indictments, including 12 for crimes against humanity, were filed during the reporting period. As required, UNMISET is providing legal defence to those indictees whose cases come to trial, while also providing training to Timorese counterparts. Capacity-building of Timorese investigators and prosecutors has continued, supported by the efforts of UNMISET and bilateral donors.

25. It is expected that the investigation into the last of the 10 priority cases will be complete by May 2003, and the relevant indictments filed in June 2003. Once the investigation is completed the Serious Crimes Unit will focus on the provision of assistance to the prosecution and the conduct of supplementary investigations, as required, during the trials, and on the investigation and indictment of other crimes against humanity, such as murder, rape and torture, committed in 1999 in other districts of Timor-Leste that remain uninvestigated or partially investigated so far.

26. Regardless of the efforts that can be made, the judicial process dealing with serious crimes will remain incomplete by June 2004. It should be expected that many cases will remain unheard at the appellate level by that time, and that a number will not have been decided at the level of first instance. As yet no legislation exists in Timor-Leste for the appointment of future Deputy Prosecutors General, or potential successors to the current incumbent in this post. Continuing external assistance will be required to complete this process.

27. Strong political commitment will also be essential. The majority of those accused remain outside of Timor-Leste, including nearly 90 per cent of those accused of crimes against humanity. It is crucial that these indictments for serious crimes be respected, on grounds of principle and of precedent, and that the individuals involved face trial.

28. Through its Human Rights Unit, UNMISET provides support and advice to the Commission for Reception, Truth and Reconciliation. In all 13 districts of the country, the Commission is conducting a programme of truth-seeking, conducting community reconciliation procedures and holding community discussions. By the

end of March, the Commission had taken approximately 2,500 statements, of a target of 8,700 in total; had begun a national research programme; and had held two national public hearings. The Commission is also attempting to engage in outreach activities involving the East Timorese resident in Indonesia. Further support may be required for outreach, case-processing capabilities and political analysis.

Programme II
Internal security and law enforcement

29. Over the reporting period, UNMISET has continued to undertake executive policing while supporting the development of the National Police of Timor-Leste (PNTL). The Timor-Leste police now number 2,530. In addition, 253 general recruits commenced training at the Police College on 31 March 2003. These recruits are expected to become probationer recruit agents in June 2003 following three months' training. In a recent round of promotions, 24 officers were advanced to the rank of Inspector, and assumed important management positions, including Deputy Commissioner Operations, Deputy Commissioner Administration, Chief of Operations, National Investigations and District Commander roles. It is expected that additional key positions will be filled in the next few months.

30. The National Police are responsible for routine policing matters in 7 of Timor-Leste's 13 districts. The police have worked hard to win the confidence of the communities where they are deployed, and have effectively undertaken the task of routine patrolling. The assumption by PNTL of responsibility for policing in Lautem District on 3 April 2003 marked the first time that the Government had taken on concurrent police and defence responsibilities in a single district. Close coordination between military and police will be essential to ensure that PNTL retains primacy for the maintenance of law and order and internal security within the District. UNMISET will continue to assess these working arrangements and to provide support as necessary.

31. Further efforts are required for the Timorese police to play the role in internal security that is envisaged by the country's leadership. PNTL must prepare to meet the evolving operational challenges posed by civil unrest and an apparent resurgence of activity by armed groups, as noted in my special report, while its assumption of responsibility for districts such as Baucau, Viqueque and Dili may pose particular problems. Yet resource constraints remain significant, including in the areas of transportation, communication and other equipment, including non-lethal riot control equipment. More fundamentally, management and human resource policies for the force have yet to be developed, as does a political and legal framework.

32. The PNTL crowd-control capability is already undergoing further extensive development. The Government of Timor-Leste also plans to form rapid deployment groups within PNTL. These groups, which would ultimately include a total of 500 officers, would comprise highly trained, well-equipped formed units to respond to the challenge posed by armed groups. They would be stationed in the districts of Cova Lima, Bobonaro, Ermera, Viqueque and Baucau; it is planned that the first of these forces would be deployed early in 2004, to become a point of contact with armed groups as the military component is withdrawn.

33. As provided for in resolution 1473 (2003), the adjustment of the Mission's capacity for police training in key areas, greater emphasis on human-rights and rule-

of-law elements, and the retention of a greater monitoring and advisory presence in districts where policing authority has been handed over to PNTL should contribute to enhancing the effectiveness, professionalism, accountability and responsiveness of PNTL and equip it better to meet the emerging challenges. The relevant recruitment process for specialized advisers is already under way. Meanwhile, the operational responsibilities of civilian police will be reduced as responsibility for routine policing is handed over. This would permit a gradual downsizing of the police component, from approximately 625 at the beginning of June 2003 to 325 at the beginning of 2004. In view of the time required for the development of Timor-Leste's police capacity, the inclusion within UNMISET of a formed police company to respond to civil disturbance, as envisaged in resolution 1473 (2003), represents a crucial short-term measure to address urgent needs, as does the adjustment of the strategy and downsizing plan for the military component described below. As reflected in my special report, appropriate safeguards and arrangements for command and control will be crucial to enable the military component to play an active role during the final year of the Mission's mandate, and to ensure that UNMISET has full control of the mechanism that would trigger military back-up to police.

34. As mentioned in my special report (S/2003/243), representatives of the Government, the United Nations and donor countries conducted a joint assessment mission to determine Timor-Leste's policing needs, from 17 to 30 December 2002. The mission's main objectives were to assess the handover of executive authority to the National Police in relevant districts; to assess progress against the timetable for the development of the National Police; to assess the current PNTL capacity; to recommend strategies to address PNTL needs; and to develop a PNTL capacity-building programme.

35. The Government of Timor-Leste is drawing upon the road map provided in the report of the joint assessment mission on policing to elaborate a national strategy for the long-term development of PNTL. The report highlighted in particular the importance of enhanced management capability within PNTL, while identifying a number of specific needs. UNMISET facilitated the first meeting of the PNTL Institutional Capacity-Building Committee on 7 April, under the leadership of the Minister of the Interior, to launch the development of a 12-month plan of action to address serious institutional challenges. An international workshop on institutional capacity-building of the police, to be held in Dili on 22 and 23 April 2003, will provide an opportunity for the Timorese leadership, together with UNMISET and donor countries, to further discuss practical means to respond to the recommendations in the report of the joint assessment mission. UNMISET together with the Department of Peacekeeping Operations will support the implementation of this process.

36. While the Government recently promulgated a code of conduct for police, the legal framework for policing continues to be based on the relevant UNTAET regulation. To promote the confidence of the community in PNTL, it will also be essential to establish institutional safeguards to ensure that police operations are transparent, accountable and consistent with accepted policies, and to create external and independent complaints and oversight mechanisms.

37. Following the attacks of January 2003 in Ermera District, the Government has encouraged the formation of village-based security groups to assist the police and

military peacekeepers in addressing the threat posed by armed groups. While such cooperation could in principle enhance the effectiveness of law-enforcement efforts, it will be important to ensure that this does not favour an unintended pattern of unregulated or politically driven use of force by semi-formal groups.

Programme III
External security and border control

1. Support for external security and territorial integrity

38. The military component of UNMISET continues to provide support for the external security and territorial integrity of Timor-Leste, while ensuring the timely handover of responsibilities to the national defence force, Falintil-FDTL, and to relevant public administration departments. As detailed in my special report, this task has become more challenging over recent months, as there is increasing evidence that armed groups and former militias are seeking to establish support within the country with the object of undermining stability. International military capability will be essential in the coming months to promote security in the area of the Tactical Coordination Line, and to provide a short-term response to the threats posed by armed groups, whose tactics, weapons and training in a frequently difficult terrain exceed the capacity of any other security force, while the Timorese forces obtain the necessary capability to assume this task; and to check the development of other threats that could overwhelm Timorese forces at the time of the withdrawal of UNMISET.

39. After its consideration of my special report, and of a letter dated 28 March 2003 from the Under-Secretary-General for Peacekeeping Operations (S/2003/379, annex), the Security Council in resolution 1473 (2003) approved a revised downsizing schedule for the UNMISET military component that will be of assistance in effecting an appropriate strategy to achieve this objective. As determined in the resolution, UNMISET will retain the two composite infantry battalions currently deployed within the region adjoining the Tactical Coordination Line, together with associated force elements, including mobility.

40. Within the capacity provided by this revised downsizing schedule, the military component would adopt the following strategy:

(a) Improve its ability to use information to assist in the tactical employment of the infantry forces available;

(b) Assist in greater coordination and exchange of information with UNMISET police and with Timor-Leste security agencies to improve effectiveness;

(c) Promote relations with the public and enhance public understanding of the military component's role;

(d) Make more effective use of the forces available and seek a more timely response in the event of incidents requiring employment of peacekeeping forces.

41. The planned configuration of the military component over the coming months will be adapted in several respects to facilitate this strategy. Rather than withdrawing from the Cova Lima district, forces in Sector West will remain as currently deployed. The tactical headquarters in Sector West will continue to manage day-to-day operations in this sector while formed units will continue to be

employed in their current areas of operation on tasks that are essentially the same as those conducted at present. Additional flexibility will be facilitated by the assumption of responsibilities at the Tactical Coordination Line by the agencies of the Government of Timor-Leste; as indicated below, this would permit the military component to discontinue its presence at established security posts at the junction points, although it would continue to provide back-up through established procedures with United Nations police. A similar arrangement has been adopted in Oecussi, where it is planned that responsibility for border crossings will be handed over to PNTL and the Timor-Leste Border Customs Service on 17 April. This would assist the UNMISET military component in making a complete withdrawal from Oecussi before the end of the year. Besides these changes in the formed units, the military component's public and military information capabilities will be somewhat enhanced through the addition of a number of specialist personnel. The force levels deployed in the central region, including those in Dili and Baucau, will remain unchanged until the end of the year.

42. The implementation of elements of this strategy has already enabled the military component to make some progress in addressing the threat posed by armed groups. Of those involved in the 24 February killings in Bobonaro, one was apprehended immediately, while another was killed as a result of an engagement with peacekeeping forces; a further six suspects were apprehended by the Indonesian authorities in West Timor for their alleged involvement in the incident. Peacekeepers located a campsite used by the group, where they found weaponry including a semi-automatic rifle, a fragmentation grenade, nearly 1,000 rounds ammunition, and other military equipment, as well as a diary that suggested the existence of a number of other, similar groups. Close cooperation between military peacekeepers and the police and civil authorities also led to the capture on 8 March of a man armed with a semi-automatic weapon in Hatoulia sub-district. Furthermore, close cooperation between the military component and United Nations Police has seen the establishment of a Joint Information Group to coordinate the collection of information, its analysis and subsequent responses to it. This coordination has been manifest in a number of joint searches for suspected weapons caches, armed groups and suspect individuals.

43. In accordance with the guidelines established by the Security Council, the military component would aim to reach a total of 1,750 by the end of this year. In the interim, the military component would be reduced to a total strength of 3,500 by July 2003 and to 3,300 by October 2003. The limited infrastructure and resources available to conduct rotations and repatriations will however necessitate careful scheduling of troop movements during these months, and may result in some minor changes in timing.

44. When the military component reaches a strength of 1,750, it will be structured around two infantry battalions, with responsibility for the western and eastern parts of the country respectively. Once the requisite Timor-Leste capability and capacity is operational and able to take a lead responsibility in addressing the challenges identified above, the reconfigured military component would act as a deterrent and respond preventively to threats to the security environment; at the same time, it would seek to retain the trust and confidence of the Timorese people, including through public information activities, and to maintain cooperation and information-sharing with Timorese agencies.

45. With the closure of Sector West headquarters at the end of the year, it is intended to adopt a modified command structure, according to which the military component will be commanded by a Major General, supported by an integrated force headquarters with three full colonels, one of whom would serve as Chief Military Observer. This structure would remain until the planned cessation of the operations of the military component in May 2004.

46. In the context of the downsizing process, the effectiveness of the military component will depend largely on the degree to which it has the mobility necessary to compensate for its reduced numbers and for the increased areas of responsibility of individual units. It will be crucial for troop-contributing countries to minimize the restrictions placed on the use of their forces. Furthermore, the tactical air mobility available to the military component is already stretched to the limit, and would be reduced further under current plans, although this operational requirement will continue into the early part of 2004. Provision of the necessary capability in this area will have a direct impact on the ability of the military component to play the role expected of it.

47. Development of the Falintil-FDTL continues and is making steady progress. The second of the two planned infantry battalions is expected to become operational by the end of this year. Under current plans there will be no further handover of defence responsibility for districts until 2004. This decision was taken in conjunction with the Falintil-FDTL in order to minimize the operational demands on it and thereby support its development. It should be noted however that the development of the defence force continues to rely on support from donors willing to provide equipment, training and facilities. The provision of bilateral training teams by Member States remains one of the most effective means of developing the Falintil-FDTL in the timely manner required to ensure an effective exit by the UNMISET military component.

48. As noted in my special report, discussions continue with the Government on the most effective way of further developing the capability and capacity of the F-Falintil-FDTL. A number of options for the individual operations of each military organization, and the ways in which interactions, including exchange of information, within these options could occur have been framed for consideration. These require further development prior to consultation with troop-contributing countries to ensure that they have their support and understanding prior to implementation. To date, Timor-Leste has yet to make further enhancements to defence and security through bilateral arrangements.

2. Assisting in the development of border security and control

49. A stable and well-established border regime is essential to internal security. The Government of Timor-Leste is committed to the demilitarization of the border on the Timor-Leste side, and seeks to promote the direct engagement of the relevant Timor-Leste civilian agencies with their Indonesian civilian agency counterparts. Border services comprising PNTL border patrol and immigration officers have been trained and are deployed at each of the border crossing points, and in some cases are deployed alongside Customs Service officers. The Government envisions that security in the area will be maintained primarily by two units of PNTL, namely, the Border Patrol Unit and, ultimately, the rapid deployment groups described above.

50. The police component, together with the military component and the civilian administrative staff of UNMISET, have sought to enable the Border Patrol Unit to assume its duties fully by the end of June. While troop-contributing countries have contributed some facilities and equipment to the Unit, deficiencies continue to exist, particularly in regard to vehicles, weapons and some aspects of infrastructure, such as drinking-water wells at border crossings.

51. As noted above, the military component will continue its programme of active patrolling behind the border to deter and resist incursions, while retaining its ability to support PNTL units, should challenges arise that exceed their capacity. Border Liaison Teams of military observers also plan to withdraw, but observers will continue to monitor border functions through regular visits.

B. Role of the United Nations system

52. The ratification of the Timor Sea Treaty has led to hopes of significant gas and oil revenues in the near future. Timor-Leste remains the poorest country in South-east Asia, however; more than 60 per cent of people in the country live on less than $1 a day, and up to 40 per cent live below the poverty line, on less than 55 cents a day. Large numbers of young people continue to leave the country in search of employment abroad, as economic activity continues to be slow and is hampered inter alia by the continuing reduction of the international presence and the still relatively unpredictable security situation. While the Parliament has adopted legislation that provides a regime to distinguish between public and private property, no legislation is yet in place to regulate differences between competing private interests.

53. The Government's current budget stands at about US$ 74.2 million for the year 2002/03 compared to $53.1 million for the year 2001/02; the annual level of international or development partner support is estimated to be more than $190 million in 2002/03. The Government is drawing on the priorities established by the National Development Plan in planning the next national budget. The Council of Ministers has approved a stabilization programme with activities that cater to the urgent need of the population over the next 18 months and have quick impact on rural communities and employment generation.

54. The Government's immediate and longer-term development efforts draw on support provided by UNMISET and by United Nations agencies, funds and programmes, the World Bank and Member States, in cooperation with civil society and the private sector.

55. The Government's Recovery, Employment and Stability Programme for Ex-Combatants and Communities in Timor-Leste (RESPECT), supported by UNDP, aims to provide employment opportunities to the most vulnerable groups of society. United Nations agencies continue to promote further returns of East Timorese from Indonesia, and to assist those who have come back to the country, among other things reuniting children with their families. The Office of the United Nations High Commissioner for Refugees (UNHCR), despite the phase-down in its operations, remains committed to working with the national authorities to develop appropriate domestic legislation and institutions to meet the needs of returnees. UNHCR will also work with authorities to ensure that East Timorese remaining in Indonesia have

access to Indonesian citizenship, including non-discriminatory access to registration and national identity documents.

56. The United Nations system is also supporting the Transition Support Programme, which focuses on poverty reduction, governance, capacity-building, expenditure and policy management and private sector development. In keeping with the linkage established by the National Development Plan between infrastructure rehabilitation and national development, there has been significant progress in the rehabilitation of Timor-Leste's electricity supply, Dili Port, and the national roads. Other efforts include support for the compilation of the first national census, the protection of national heritage and architecture and the establishment in Dili of a national culture centre and a community science centre. The United Nations Educational, Scientific and Cultural Organization and other relevant agencies continue to assist the Government in improving school curricula and providing training, in particular on sciences, health and the environment.

57. With the support of the United Nations system and development partners, the Government convened a conference on 26 and 27 March in Dili on achievement of the Millennium Development Goals. Timor-Leste plans to submit to the United Nations its country status report on the Millennium Development Goals during its independence celebration in May 2003.

IV. Financial aspects

58. My budget proposal for the period from 1 July 2003 to 30 June 2004 (A/57/689), prepared in accordance with my downsizing plan for the Mission (S/2002/432) has been submitted to the General Assembly. In view of the adoption of Security Council resolution 1473 (2003), a revised budget which reflects changed requirements for the period will be submitted to the General Assembly for its consideration during the main part of the Assembly's fifty-eighth session.

59. As at 28 February 2003, unpaid assessments to the special account for UNTAET/UNMISET for the period since the inception of the Mission amounted to $118.0 million. The total outstanding assessed contributions for all peacekeeping operations at the same date amounted to $1,921.6 million.

V. Observations and recommendations

60. Much has been achieved in the year that has elapsed since the establishment of UNMISET within an independent Democratic Republic of Timor-Leste. Building upon the foundations laid during the United Nations Transitional Administration in East Timor, the Timorese public administration and police force are assuming increasing levels of responsibility, with growing confidence. The relations between Timor-Leste and Indonesia have continued to develop and there has been significant progress towards the determination of their joint border and sustainable arrangements for its management. Much remains to be done, however, and continued assistance by the international community will be crucial to enable Timor-Leste to confront with success the serious political, practical and security challenges that lie ahead.

61. It is clear that further bilateral efforts will be necessary alongside and after the contribution of UNMISET, in such areas as specific sectors of civilian administration; judicial process to deal with serious crimes committed in 1999 and other human rights capacity-building activities; the continuing development of a non-political, professional police force; and defence and security cooperation. I urge the Governments of countries where those accused of serious crimes may be located to make every effort to ensure that such persons are brought to justice. Continued traditional development assistance will also be required.

62. It is essential that the international community make a renewed effort to meet these needs, and to enable the country's leaders to pursue their efforts to build democracy and protection for human rights, peace and cooperation with their neighbours, and economic development with social solidarity and equity.

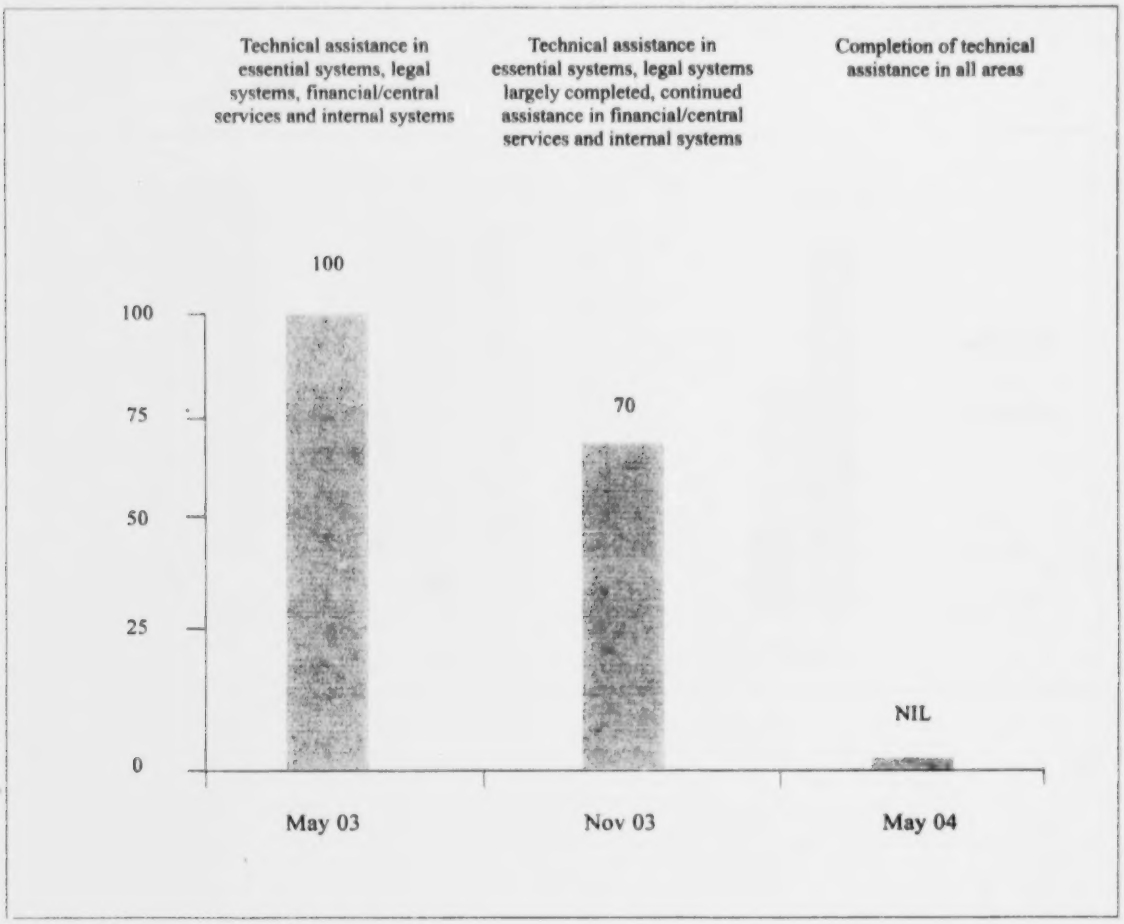
63. In the context of its progressive downsizing, UNMISET has established a mission liquidation task force under my Special Representative to help formulate recommendations for consideration in due course by the appropriate bodies.

64. By adopting resolution 1473 (2003), the Security Council showed that it remains determined to provide the support required for the long-term success of Timor-Leste. The Security Council may wish to once more demonstrate its commitment to completing the tasks that have been advanced so far in Timor-Leste by deciding to extend the mandate of UNMISET for a further year, until 20 May 2004. The civilian, police and military components of the operation would continue to discharge the tasks outlined in the mandate implementation plan for UNMISET, within the modified downsizing schedules reflected in the present report; the proposed strategy for the military component is described in paragraphs 38 to 51 above. In accordance with the Security Council's emphasis in resolution 1410 (2002) on the critical importance of cooperation with Indonesia, the UNMISET office in Jakarta would continue to facilitate the operation's communication with the Indonesian authorities, while contributing to the development of relations between Indonesia and Timor-Leste.

65. I should like to pay tribute to the dedicated efforts of my Special Representative and the civilian, military and police components of his team, including the United Nations Volunteers who have made an exceptional contribution to the work of UNMISET; and to convey my deepest sympathy to the families of those peacekeepers who lost their lives in Timor-Leste over the past six months.

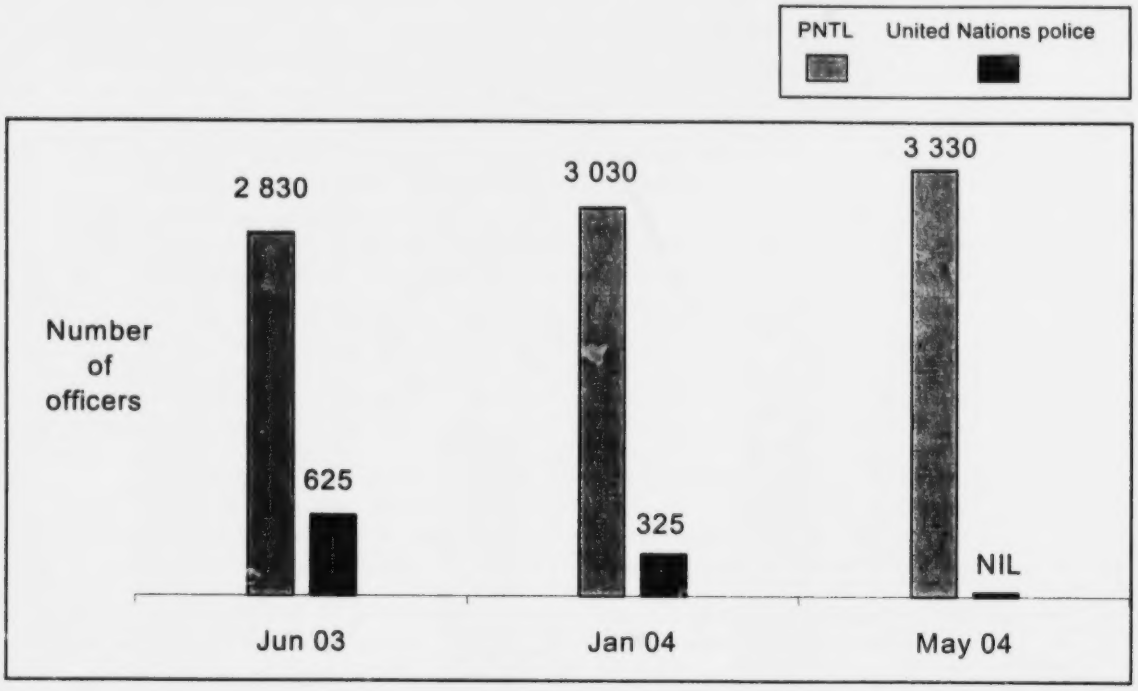
Annex I

United Nations Mission of Support in East Timor Civilian Support Group



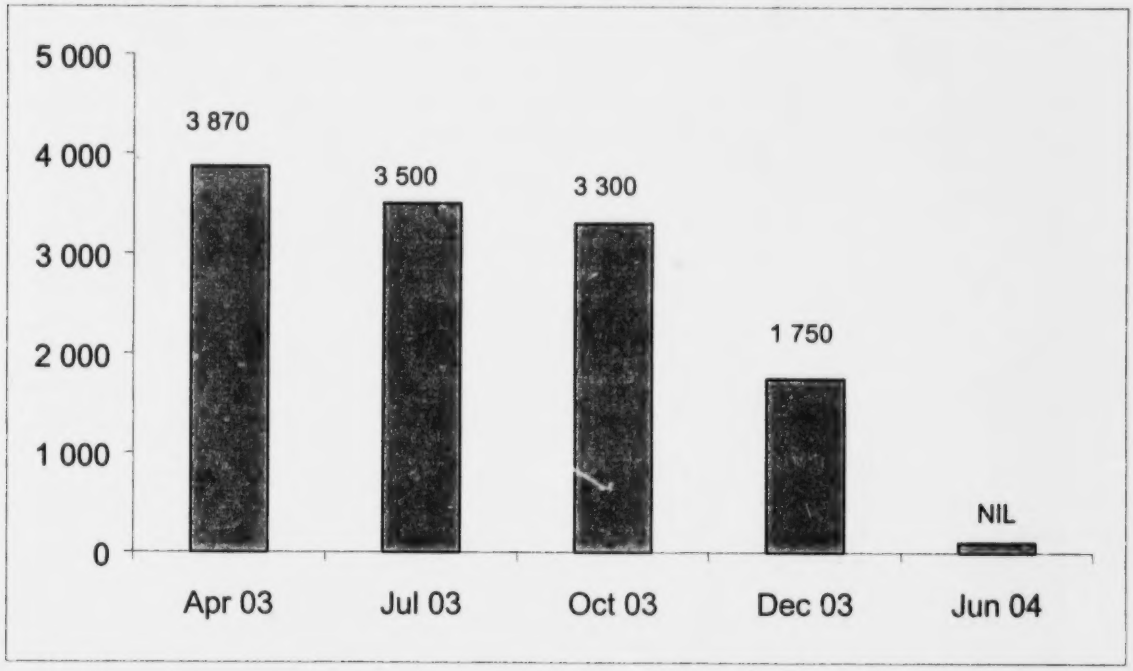
Annex II

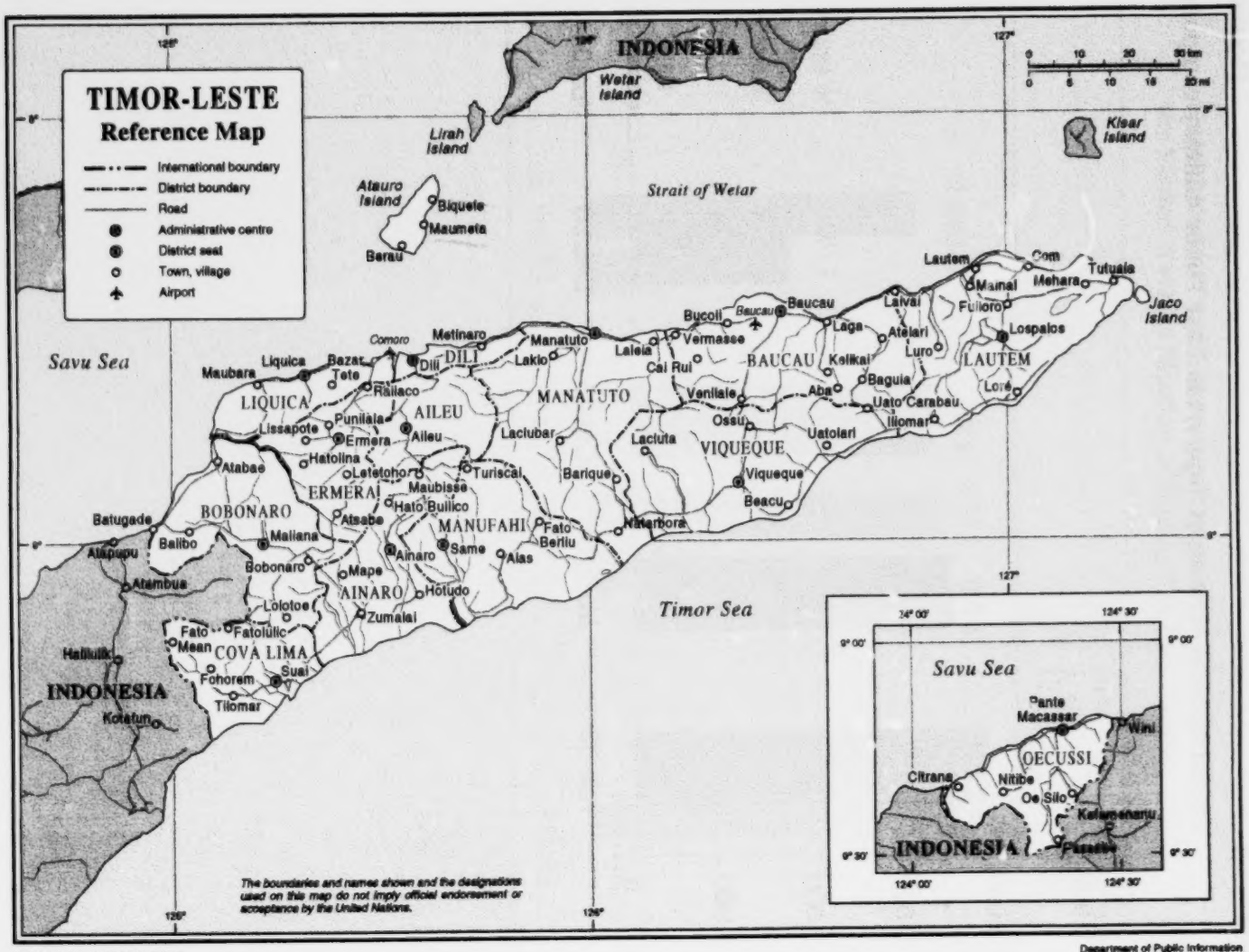
United Nations and Timor-Leste police strength during the United Nations Mission of Support in East Timor



Annex III

United Nations Mission of Support in East Timor military component





Map No. 4189 UNITED NATIONS
November 2002

Department of Public Information
Cartographic Section

United Nations S/2003/450

Security Council

Distr.: General
22 April 2003

Original: English

Letter dated 21 April 2003 from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People addressed to the President of the Security Council

In my capacity as Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, I have the honour to refer to the summary statement by the Secretary-General concerning the list of items of which the Security Council is currently seized and on the stage reached in their consideration (S/2003/40).

In this connection, I would like to reiterate the Committee's continuing objection to the deletion from the aforementioned list of those items that relate to the exercise of the inalienable rights of the Palestinian people, the question of Palestine and the situation in the Middle East, which are of special concern not only to the Committee but also to the majority of Member States. The Committee believes that pending a comprehensive, just and lasting settlement of the Arab-Israeli conflict, the core of which is the question of Palestine, in accordance with international legitimacy, these items should remain on the list of matters of which the Council is seized, as they continue to involve its primary responsibility with regard to the maintenance of international peace and security.

Any decision to delete those items, especially at this very critical point in international efforts to revive the political process, would go well beyond the bounds of procedural exercise and would have far-reaching negative political implications. On behalf of the Committee, I would like once again to express the firm hope that decisions of such fundamental importance will be taken in thorough consultation with all the parties concerned.

I should be grateful if you would have the text of the present letter circulated as a document of the Security Council.

(*Signed*) Papa Louis **Fall**
Chairman
Committee on the Exercise of the Inalienable Rights
of the Palestinian People

03-33043 (E) 230403

United Nations S/2003/451

Security Council

Distr.: General
25 April 2003

Original: English

Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 13 November 2002 (S/2002/1251).

The Counter-Terrorism Committee has received the attached third report from Lebanon submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-34186 (E) 160503 190503

Annex

[Original: Arabic]

Note verbale dated 31 March 2003 from the Permanent Mission of Lebanon to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Lebanon to the United Nations in New York presents its compliments to the Counter-Terrorism Committee established pursuant to resolution 1373 (2001) and, in reference to letter No. S/AC.40/2002/MS/OC.175 of the Chairman of the Committee, dated 30 October 2002, has the honour to submit herewith a second supplementary report containing the responses of the Lebanese Government to the questions put by the Committee with regard to the supplementary report transmitted by the note verbale dated 21 June 2002 from the Permanent Mission of Lebanon (see S/2002/728).

The Permanent Mission of Lebanon takes this opportunity to convey to the Counter-Terrorism Committee the assurances of its highest consideration.

Enclosure*

The Lebanese Republic
Ministry of Foreign Affairs and Emigrants

Question:

No. 1.2. Effective implementation of paragraph 1 (b) of the resolution requires, in accordance with articles 2 and 4 of the Convention for the Suppression of the Financing of Terrorism that there are provisions in place specifically criminalizing the wilful provision or collection, by any means, directly or indirectly, of funds by the nationals of Lebanon or in its territory with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. The acts sought to be criminalized are thus capable of being committed without any specific act of terrorism actually occurring or being attempted, either within or outside Lebanon. As Lebanon intends to ratify the Convention for the Suppression of the Financing of Terrorism, is it the intention of Lebanon to include such provisions in its criminal law?

Reference: Paragraph 1 (b) of Security Council resolution 1373 (2001).

Response:

The articles of the Penal Code relating to terrorism provide for the prosecution of any person who is an accomplice in or an accessory to the crime of terrorism or who incites others to or perpetrates the crime of terrorism.

Moreover, in the context of the amendment to the Law on the Combating of Money-laundering, the Administration and Justice Committee decided at its session held approximately two months ago to introduce a provision that considers the deliberate or intentional funding of terrorist acts or such funding by any means an offence punishable by hard labour.

Lastly, this draft amendment to the Law on the Combating of Money-laundering will be put before the Chamber of Deputies at the next plenary session.

It should be mentioned that the Arab Convention on the Suppression of Terrorism, signed at Cairo on 22 April 1998, to which Lebanon became a party pursuant to Law No. 57 of 31 March 1999, criminalizes such acts.

Question:

No. 1.3. If not currently provided in the money-laundering laws or regulations of Lebanon, please provide information on how Lebanon intends to require financial institutions to record originator information on all financial transactions.

Reference: Paragraph 1 of resolution 1373 (2001).

Response:

The banking laws and regulations in effect in Lebanon make it incumbent upon banks and financial institutions operating in Lebanon to record on their books all banking and financial transactions. Law No. 318 of 20 April 2001 on the Combating

* The annexes are on file with the Secretariat and are available for consultation.

of Money-laundering also makes it incumbent upon the institutions subject to its provisions to take measures to make available knowledge of the source of the transactions that they conduct with their clients.

Article 4 of Law No. 318 on the Combating of Money-laundering makes it incumbent upon institutions not subject to banking secrecy, including individual institutions, in particular money-changing offices, financial brokerage companies, leasing companies, mutual funds, insurance companies, companies promoting, building and selling real estate and merchants dealing in valuables (jewellery, precious stones, gold, works of art, antiques) to keep records of transactions with a value in excess of US$ 10,000. They must also, through official documents, verify the identity and address of each client and keep photocopies of these and transaction-related documents for a period of no less than five years.

Article 5 of the above-mentioned law makes it incumbent upon banks, financial institutions and all other institutions subject to the Banking Secrecy Law to monitor their transactions with clients in order to avoid any possible involvement of such institutions in the laundering of funds deriving from the offences specified by this Law, including the terrorist offences, set out in articles 314, 315 and 316 of the Penal Code. The principles of this monitoring are set out in the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering issued by the Bank of Lebanon in Circular No. 83 of 18 May 2001 and the amendments thereto.

Question:

No. 1.4. Effective implementation of paragraph 1 of the resolution requires that the legal obligation to report suspicious transactions for banks and financial institutions should extend to all professions engaged in financial transactions (such as lawyers, accountants) and that they should all be subjected to penalties for non-compliance in order to enable the effective prevention of the financing of terrorism. Could Lebanon please comment on the action that it intends to take in this regard?

Reference: Paragraph 1 of resolution 1373 (2001).

Response:

In accordance with article 11 of the Regulations on the Monitoring of Financial and Banking Transactions to Combat Money-laundering issued by the Bank of Lebanon in Circular No. 83 of 18 May 2001, the auditor assigned to monitor the bank or financial institution is required to review internal auditing procedures in order to ascertain compliance by the bank or financial institution with the provisions of the Regulations, and to report immediately to the Governor of the Bank of Lebanon, in his capacity as Chairman of the Special Investigation Commission, any violation of these provisions, especially any transactions suspected of involving the laundering of funds deriving from any of the offences specified in Law No. 318 of 20 April 2001 on the Combating of Money-laundering, if it emerges that the bank or financial institution has omitted to make such a report.

Articles 8 and 18 of Decree No. 1983 of 25 September 1971 relating to the regulation of the profession of bank auditor require that such auditors exercise their powers in accordance with the provisions of the Code of Commerce and the Code of Money and Credit and such written instructions as may be issued by the Bank of

Lebanon or the Banking Control Commission in circulars sent directly to the auditors. The same articles also stipulate that any auditor who fails to fulfil his professional obligations in the discharge of his functions shall be subject to administrative penalties, namely, warning, reprimand or being barred for a specific time from serving as a bank auditor.

The obligation incumbent upon bank auditors to report suspicious transactions and the penalties imposed should they fail in their professional duties applies also to auditors assigned to all other institutions subject to the control of the Bank of Lebanon. The same obligations are imposed upon the auditors assigned to monitor other financial institutions by articles 185 and subsequent articles of the Code of Money and Credit, article 21 of Law No. 160 of 27 December 1999 (regulation of commercial and financial transactions), article 11 of Law No. 234 of 10 June 2000 (regulation of financial brokerage) and article 20 of Circular No. 49 of 5 September 1999 issued by the Bank of Lebanon (mutual funds).

Question:

No. 1.5. Effective implementation of this paragraph also requires the existence of legal provisions or administrative measures that ensure that funds and other economic resources collected by non-profit organizations (e.g., religious, charitable or cultural organizations) are not diverted for other than the stated purposes, particularly for the financing of terrorism. Please explain whether such provisions or measures are in place in Lebanon and, if not, how Lebanon proposes to monitor the use of funds and so on by non-profit organizations.

Reference: Paragraph 1 and, in particular, 1 (d) of resolution 1373 (2001).

Response:

Some elements of the response were mentioned in the first report with regard to the question concerning the manner in which Lebanese laws and regulations prevent the financing of terrorist activities as well as the question on how Lebanese legislation prevents the financing of terrorism as distinct from or independent of money-laundering.

In addition, there are legal and regulatory provisions that aim to monitor the use of funds or other economic resources collected by non-profit organizations (e.g., religious, charitable and cultural organizations) in order to ascertain that they are not being diverted for purposes other than the stated purposes, particularly for the financing of terrorism.

Article 7 of the Law on Associations stipulates that it is incumbent upon associations to keep a record of their income, sources of income and details of the type and amount of expenditures, to be submitted at any time to the Government on request.

Law No. 318 of 20 April 2001 also makes it incumbent upon institutions not subject to the Banking Secrecy Law (article 4) and banking institutions subject to that Law (article 5) to monitor the transactions they conduct with their clients, with a view to avoiding the institution's involvement in suspicious transactions, and to report immediately (article 7) to the Special Investigation Commission established under the Law (article 6) any transactions they suspect of concealing money-laundering, including those for the financing of terrorism. Article 3 of the Regulations on the Monitoring of Financial and Banking Transactions to Combat

Money-laundering states that "client" means any natural or legal person, whether a company, institution of any kind or a non-profit organization or association (such as a trust fund, cooperative, social care establishment, charitable association or club).

The Ministry of Interior and Municipalities, which is concerned with the affairs of political parties and associations in Lebanon, exercises financial control over the activities of parties and associations legally licensed under the provisions of article 7 of the law promulgated by Decree No. 10830 of 9 October 1962, which makes it incumbent upon each licensed association to submit in the first month of every year a list containing the names of its members, a copy of its annual budget and its previous end-of-year account and imposes a financial penalty for each violation or delay in submission of the said documents. This Ministry also exercises administrative control based on the provisions of article 6 of the Law on Associations, which absolutely prohibits the formation of secret associations, makes it incumbent upon each association to inform the department immediately of any change in its statutes, bye-laws, board of administration or headquarters and imposes penalties and fines in cases of non-compliance. In addition to the above, article 335 of the Lebanese Penal Code penalizes anyone who forms an association or enters into a written or verbal agreement with the intent to commit a serious offence against persons or property or to impugn the authority or dignity of the State or challenge its civil, military, financial or economic institutions. Article 373 of the Code provides that an association shall be considered secret if its purpose is incompatible with the law and it carries out all or some of its acts in secret.

Article 316 of the Penal Code penalizes any association established with intent to change the economic or social nature of the State or the fundamental conditions of society and stipulates that such an association shall be dissolved and its members condemned to a term of hard labour. The penalty for founders and directors shall be not less than seven years.

Moreover, the Lebanese security agencies, including the army and the internal security, general security and State security forces, each within its sphere of competence, monitor entities and individuals under suspicion, observe their movements and prevent them from carrying out any acts that disrupt security or contravene the laws in force, establishing groups, recruiting members for secret organizations, collecting funds or providing any support to terrorist acts carried out inside or outside Lebanon. The investigations and procedures carried out by the security forces are conducted on instructions from, and under the supervision of the judicial authority and are based on the provisions of the Code of Military Justice and the Code of Criminal Procedure; specific contraventions lead to revocation of the licence and dissolution of the association.

Non-profit associations are subject to monitoring by the supervisory authorities and, under the laws in force, may have their licences revoked if they use their funds for purposes other than the stated aims of the association, not to mention facing criminal prosecution.

Lastly, the Lebanese Government has recently approved two draft laws and transmitted them to the Chamber of Deputies for adoption and promulgation.

The first amends Law No. 318 of 20 April 2001 by adding to article 1 a provision whereby "funds relating or contributing to the funding of terrorism, terrorist acts or terrorist organizations" are to be deemed illegal.

The second adds to article 315 of the Penal Code a provision imposing the penalty of "a term of hard labour for a period of not less than three years and not exceeding seven years and a fine not less than the equivalent of the amount paid and not greater than three times that amount on every individual who, with intent, directly or indirectly finances or contributes to the financing of terrorism, terrorist acts or terrorist organizations".

Question:

No. 1.6. Please outline the existing or proposed legal provisions that criminalize the use of Lebanese territory for the purpose of financing, planning, facilitating or committing terrorist acts against other States or their citizens. Effective implementation of paragraph 2 (d) and (e) of the resolution requires that such provisions should be incorporated in the penal law of Lebanon.

Reference: Paragraphs 2 (d) and (e) of resolution 1373 (2001).

Response:

We enclose the legal provisions in the Penal Code that relate to crimes of terrorism and to the Arab Convention on the Suppression of Terrorism, signed at Cairo on 22 April 1998, which was approved by Law No. 57 of 31 March 1999 and has become part of Lebanese legislation.

Question:

No. 1.7. According to the supplementary report, Lebanese law is not applicable to a foreign national who, outside Lebanese territory or while aboard a foreign vessel, commits a felony against the security of the State of Lebanon, counterfeits the State seal, forges or counterfeits Lebanese or foreign banknotes or currency in circulation by law or by custom in Lebanon or falsifies passports, entry visas, identity cards or extracts of records, if that foreign national does not act in violation of the rules of international law. Please explain to which rules of international law article 19 of the Lebanese Penal Code refers.

Reference: Paragraph 2 (e) of resolution 1373 (2001).

Response:

Article 19 of the Penal Code states that Lebanese law does not apply to a foreign national who, outside Lebanese territory or while aboard a foreign vessel, commits a felony against the security of the State of Lebanon, counterfeits the State seal, forges or counterfeits Lebanese banknotes or currency in Lebanon or falsifies passports, entry visas, identity cards or extracts of records, if that foreign national does not act in violation of the rules of international law.

The words "rules of international law" in the last phrase of this article refer to the international treaties or agreements by which Lebanon is bound. The felonies referred to in the article in question do not constitute a violation of these treaties or agreements, given that article 2 of the Code of Civil Procedure lays down the principle of the hierarchy of rules, including the precedence of international treaties over internal law.

Question:

No. 1.8. Please provide the CTC with a copy of article 21 of the Lebanese Penal Code.

Reference: Paragraph 2 (e) of resolution 1373 (2001).

Response:

You will find attached the text of the article in question.

Question:

No. 1.9. Effective implementation of paragraph 2 (e) of the resolution requires that States ensure that persons who participate in the financing, planning, preparation or preparation of terrorist acts or support such acts are brought to justice either by submitting the case without undue delay to their respective competent authorities for the purpose of prosecution or by extraditing these persons. This applies without any exception whatsoever and whether or not the offence was committed in their respective territories. Please explain how, in order to comply with paragraph 2 (e), Lebanon would deal with a foreign national who is in Lebanon and has committed a terrorist act outside Lebanon against a State other than Lebanon or against that State's citizens. Is it possible under current or proposed law to prosecute that person in Lebanon if he or she is not extradited?

Reference: Paragraph 2 (e) of resolution 1373 (2001).

Response:

There is no legal provision that currently authorizes the prosecution of a foreign citizen who is in Lebanon and has committed a terrorist act outside Lebanon, since this is outside the framework of extradition or bilateral agreements.

Question:

No. 1.10. What measures are in place to prohibit the black market sale of documentation, in particular identity papers and travel documents? How are such measures, if any, being enforced?

Reference: Paragraph 2 (e) and (g) of resolution 1373 (2001).

Response:

Lebanese law considers that official documentation — in particular identity papers and accompanying documents — is personal and must not be subject to commercial exchange or improperly used or forged.

However, despite the provisions it contains concerning the above, Lebanese law does not make provision for any measures specifically prohibiting commerce in such documents on the black market, given that the Lebanese Penal Code punishes anyone who forges official documents and facilitates the use of forged documents.

The Directorate-General for Public Security of the Lebanese Ministry of the Interior has adopted precise and stringent measures to verify the forgery or sale of any documentation, in particular identity papers and travel documents, and has taken radical measures in this connection with a view to arresting violators, seizing forged documents, handing them over to the competent judicial authorities and pursuing

investigations in order to discover the manner in which the forgery operations were carried out and the techniques used in this connection.

The Directorate-General for Public Security of the Ministry of the Interior and of Municipal and Rural Affairs has, since the beginning of 2003, adopted a new Lebanese passport incorporating advanced techniques and meeting high specifications in order to prevent counterfeiting or the possibility of a Lebanese passport being used by any person other than its rightful holder.

Question:

No. 1.11. According to the supplementary report, Lebanon is bound to apply all the provisions of the relevant international conventions and protocols against terrorism to which it is a party. Please outline the legal provisions that provide for the imposition of penalties for the commission of the offences referred to in these international instruments.

Reference: Paragraph 2, in particular 2 (g) of resolution 1373 (2001).

Response:

Lebanon is committed to implementing all the provisions and articles of the international conventions and protocols against terrorism to which it is a party.

In response to the question, the following information is provided:

The Lebanese Penal Code imposes penalties for the illegal seizure of aircraft and on any person who carries out destructive acts in public places, including airport runways. The penalty is increased for individuals committing crimes against persons acting in an official capacity and enjoying international protection, such as diplomats, and penalties are imposed on anyone who takes hostages as a means of achieving his ends. Lebanon is currently considering amending the Penal Code of 1943 and will take into account all matters relating to the combating of terrorism.

Question:

No. 1.12. When does Lebanon intend to include the offences set forth in the relevant international conventions and protocols relating to terrorism as extraditable offences in the bilateral treaties to which Lebanon is a party?

Reference: Paragraph 3, in particular paragraph 3 (f) of resolution 1373 (2001).

Response:

1. When Lebanon becomes a party to international conventions and the protocols thereto pursuant to the authorization issued by the Chamber of Deputies, these provisions become an integral part of Lebanese legislation, without there being any need to amend it. Where its international commitments are incompatible with its internal legislation, the former take precedence over the latter.

2. The Ministry of Justice takes cognizance of requests for judicial assistance addressed to it by foreign States in extradition cases and studies and implements them according to the relevant rules.

It should be noted that Lebanon committed itself to cooperation with the European Union in combating terrorism when it signed the Association Agreement with the European Union in Luxembourg on 17 June 2002.

Question:

No. 1.13. Paragraph 3 (d) of the resolution requires all States to become parties as soon as possible to all the relevant international conventions and protocols relating to terrorism. The CTC would appreciate receiving information on the progress made regarding the ratification by Lebanon of the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism.

Reference: Paragraph 3 (d) of resolution 1373 (2001).

Response:

In view of the importance of the two conventions in question and their various implications, more than one department must be consulted before the necessary decision is taken. The Lebanese Government is diligently following up this matter.

Question:

No. 1.14. Paragraph 3 (g) of the resolution requests States to ensure "*that claims of political motivation are not recognised as grounds for refusing requests for the extradition of alleged terrorists*". Please clarify how Lebanese legislation meets this requirement.

Reference: Paragraph 3 (g) of resolution 1373 (2001).

Response:

The position of the Lebanese legislator, who has devoted a section to terrorism in the Penal Code, is clearly in favour of more stringent penalties, ranging from hard labour to the death penalty, for the perpetrators of acts of terrorism. Lebanon, which is aware of the requirements laid down in resolution 1373 (2001), is currently amending the Penal Code, taking into account all matters relating to the combating of terrorism, as well as matters contributing to the effective implementation of resolution 1373 (2001).

Note:

It is evident that, in order to ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists in accordance with the provisions of paragraph 3 (g) of resolution 1373 (2001), a uniform international definition of terrorism is necessary. In this context Lebanon has defined its basic position in the introduction to its first report which was transmitted to you on 13 December 2001.

United Nations S/2003/452

Security Council

Distr.: General
21 April 2003

Original: English

Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 13 November 2002 (S/2002/1248).

The Counter-Terrorism Committee has received the attached third report from India submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-33953 (E) 130503

Annex

Letter dated 28 March 2003 from the Permanent Representative of India to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In response to your letter dated 30 October 2002, I have the honour to transmit herewith, to the Counter-Terrorism Committee, the Government of India's third report (see enclosure).

While we note that the Committee had requested a response to the questions and comments raised in your letter under reference by 30 January 2003, our response was delayed owing to the effort to present as comprehensively as possible the required information. While apologizing for this delay, we do hope the Committee would understand the importance the Government of India attaches to the work of the Counter-Terrorism Committee.

(*Signed*) V. K. **Nambiar**

Enclosure

RESPONSES TO CTC QUESTIONS*

Que. 1.3 According to Section III of the supplementary report, efforts "are underway to strengthen the Foreign Exchange Management Act to prevent informal banking activities like Hawala". According to Section II of the same report, this Act (FEMA) as well as the Foreign Exchange Regulation Act (FERA) "prohibit receipt and distribution of payments in India without the permission of the RBI 'Reserve Bank of India' as per instructions of persons residing outside India". In the context of paragraph 1 of the Resolution, please elaborate on how India prevents or proposes to prevent the abuse of the hawala system by persons residing in India, both regarding informal banking activities that are undertaken upon instruction by persons residing in India and resulting in the transfer of money or financial means to persons residing either within or outside India.

Ans. Hawala transactions are illegal because permission from the Reserve Bank of India (the Central Monetary Authority of the country) is required for most types of foreign exchange transactions. There are some exceptions permitted under the law, but the transfer of money to and from the country through Hawala [i.e. non-banking channels] is in contravention of the Foreign Exchange Management Act (FEMA).

Hawala is a criminal offence under Sections 8(i) and 9(i)(b)and (d) of the Foreign Exchange Regulation Act (FERA) 1973. Penalties of up to five times the amount in contravention can be imposed for breach of these legal provisions. In addition, the offender can be prosecuted under Sec.56 of FERA in which the punishment prescribed is imprisonment of up to seven years with fine in cases where the amount involved exceeds Rupees 100,000. The Foreign Exchange Management Act [FEMA] enacted recently to replace FERA imposes civil liability for the offender for the contravention of its sections 3, 4, 5, 6 and 8. FEMA applies to all branches, offices and agencies outside India owned or controlled by a person resident in India and to any contravention committed outside India by any person to whom FEMA is applicable. Article 13 (2) of FEMA confers on the competent authority the power to direct the confiscation of any currency, security or any other money or property in respect of which any contravention has occurred.

Several authorities in India such as the Enforcement Directorate, the Police, the Customs, the Income Tax, and the state police organisations monitor activities relating to Hawala transactions. The Enforcement Directorate which is responsible for revenue intelligence, the Customs and the Police have adequate powers to initiate action against anybody indulging in illegal foreign exchange transactions, including Hawala. Several hundreds of cases of this nature have been caught and dealt with by the relevant Indian authorities.

In addition to the above, the Conservation of Foreign Exchange and Protection of Smuggling Activities Act, 1974 (COFEPOSA) contains stringent provisions enabling authorities to detain offenders for a period extending up to one year for indulging in illegal foreign exchange activities, including Hawala. A copy of the Act is enclosed for the information of the CTC. This covers all types of informal activities not under the purview of the Reserve Bank of India's regulations.

Que. 1.4 According to Section III of the supplementary report, India can implement orders of attachment or forfeiture of property upon request of foreign State on the basis of Sections 105, 105A to 105L, and 166A and 166B of the Code of Criminal Procedure. In the answer given in sub-paragraph 2(f) of Section III, it seems that India can only extend assistance on the basis of a bilateral treaty or at least a bilateral arrangement. Is this also the case in relation to the freezing of funds? If so, could such arrangements be made ad hoc?

Ans. As far as freezing of funds of terrorist entities is concerned, India will be in a position to take action on a request of a foreign State on the basis of mutuality of assistance and where adequate proof is furnished that such

* The annexes are on file with the Secretariat and are available for consultation.

freezing is required given the nature of an offence or an intended terrorist offence. We do not have any *ad hoc* arrangements to deal with matters relating to freezing of funds as such cases could be subject to challenge in the courts of law in India.

Que. 1.5 Effective implementation of paragraph 1 of the Resolution also requires the existence of legal provisions or administrative measures that ensure that funds and other economic resources collected by non-profit organizations (e.g. religious, charitable or cultural organizations) are not diverted for other than the stated purposes, particularly for financing of terrorism. Please elaborate on how India (proposes to) ensures this, in particular regarding contributions received by non-profit organizations in India, from domestic sources and in Indian currency. Please clarify whether and how the Indian Income Tax Act and the Societies Registration Act, are applicable in that regard.

Ans. For monitoring the collection and use of funds and other economic resources by non-profit organisations (for example, religious, charitable, cultural and other non-profit organisations) and for ensuring that these are not diverted for use other than the stated purposes, India had enacted as far back as 1860 the Societies Registration Act. Several states of the Union of India have, since, enacted their own Societies Registration Acts to replace the 1860 Act that contain detailed provisions relating to the registration, maintenance of accounts, collection and use of resources, audit of accounts, etc. These Acts also provide for the establishment of a separate agency for administering the law.

The above-mentioned legislation imposes certain mandatory obligations on non-profit organizations such as the filing of annual reports, intimation of change in membership and change of location, and filing of audit reports. The funds of the relevant association or society may be utilised only for the objects set forth in the Memorandum of Association. Furthermore, the funds of the society cannot be shared among members. If these requirements are not fulfilled, registration of the society is liable to be cancelled or the name of the society liable to be removed from the Register of Societies. If a registered society is determined to be not functioning according to the provisions of the Act, the Government have the right to dissolve the entity and to appoint a special officer to administer the society.

Under the Prevention of Terrorism Act 2002 (POTA), terrorist acts include acts of fund-raising by persons or organisations if such funds are intended for the purposes of terrorism. When a non-profit organisation is found diverting funds for purposes of terrorism, that organisation's name may be removed from the Register of Societies and the organisation itself may be prosecuted under POTA and its properties and assets seized under that Act.

In addition, the Foreign Contribution (Regulation) Act, 1976 (FCRA) enables the competent authorities in the Government of India to monitor closely the receipt of foreign resources by organisations in India and their use. The Government of India and the state governments maintain data- bases in respect of these organisations. In discharging their responsibilities, close and continuous interaction exists between the concerned authorities of the Government of India and state governments, including intelligence agencies and the police, to track and monitor any suspicious charitable organisations which might *inter alia* divert funds, etc. for terrorist purposes. Such information is then processed by the police in cooperation with other agencies where such suspicions are confirmed.

The Income-Tax Act prohibits the expenditure of funds by non-profit organisations for objects other than those set forth in the memorandum of association; their funds may be invested only in scheduled banks, public deposits, bonds and government securities. Auditors of such organisations are required to certify the nature of the grant as well as donations and that the grants and donations are spent for the purpose for which they were received. The Income-Tax structure of the country includes a separate Directorate General that deals with institutions that are given exemptions from income tax (religious, charitable, cultural and other non profit organisations). Such organisations are required to file regular statements with the authorities concerned. The field-level officers of the Directorate General monitor the accounts of these organisations. Therefore, an appropriate legislative framework exists, as well as adequate enforcement mechanisms, at the level of both in the

Government of India and the state governments, to monitor and check the collection and use of funds and other economic resources by non-profit organisations. [Annexures - The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and, COFEPOSA Act, 1974].

Que. 1.6 Does a national-level body have responsibility for freezing funds and other financial assets or economic resources of persons and entities described in sub-paragraph 1(c) of the Resolution?

Ans. General provisions concerning assistance in relation to orders of attachment or forfeiture of property are dealt with under section 105C of the Criminal Procedure Code (Cr.P.C.), 1973. Under section 105C(3) where a letter of request is received by the Government of India from a court or authority in a contracting State requesting attachment or forfeiture of property in India, derived or obtained, directly or indirectly, by any person from the commission of an offence committed in that contracting State, the Government may forward such letter of request to the Court, as it thinks fit, for execution in accordance with the provisions of sections 105D to 105J (both inclusive) or, as the case may be, with any other law in force. A copy of Section 105C is enclosed for ready reference. In addition, with respect to terrorist offences, property may also be forfeited under the provisions of the Prevention of Terrorism Act, 2002 (POTA).

Que. 1.7 What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in sub-paragraph 2(c) of the Resolution? It would be helpful if India supplied examples of any relevant action taken.

Ans. As far as the legislation and procedures of denial of entry to terrorists is concerned, section 3, sub section (4) of the Prevention of Terrorism Act, 2002 (POTA) provides for punishment for anybody who voluntarily harbours or conceals any person while knowing that such person is a terrorist.

The system of immigration control instituted and implemented by the Government of India is very stringent and utilises the necessary data-bases to check for terrorists/criminals. In addition, immigration authorities, customs authorities and intelligence agencies are fully equipped to ensure that no undesirable individuals/persons can enter India or seek safe haven in the country. We have extensive border controls on our land borders as well as a very strong coast guard agency to patrol the extensive Indian coast-line.

The relevant pieces of legislation - the Foreigners Act 1946; Foreigners Orders issued by the Ministry of Home Affairs from time to time,: and the Passport Act 1967 provide the appropriate and sufficient legal framework to implement sub-paragraph 2(c) of Resolution 1373. According to the Foreigners Act 1946 a person who is not a citizen of India is a foreigner and is governed by provisions of the Foreigners Act. Under the provisions of this Act, the Government of India have the power to issue orders either generally or with respect to all foreigners or any prescribed class or description of foreigners. Such orders may prohibit, regulate or restrict the entry of foreigners into India, departure therefrom or presence or continued presence therein. Under Section 7, the Act imposes an obligation on hotelkeepers and others to furnish information in respect of foreigners accommodated in such places. The Foreigners [Report to Police] Order of 1971 obligates every householder or other person to report to the nearest police station the arrival or presence in his/her premises of a foreigner. Any person contravening the provisions of the Foreigners Act is liable for punishment with imprisonment for a term which may extend to five years.

From the above, it will be clear that there are adequate laws, procedures and enforcement agencies in India to prevent terrorists from seeking safe haven in the country.

Que. 1.8 Section 3 of the Prevention of Terrorism Act, 2002, criminalizes terrorist acts perpetrated against Indian interests, mostly in India itself. Effective implementation of sub-paragraphs 2(d) and (e) of the Resolution requires that the use of Indian territory for the purpose of financing, planning, facilitating or committing terrorist acts against other States and their citizens be criminalized. Please outline the provisions which India proposes to introduce into its domestic legislation in order to comply with this requirement.

Ans. As far as the implementation of sub-paragraphs (2) and (3) of Resolution 1373 is concerned, the Indian Penal Code (IPC) (45 of 1860) contains adequate provisions to deal with persons, who plan, organise or take any other action anywhere that could constitute an offence. Copies of the relevant extracts of IPC sections 2, 3, 4, 121, 121A, 122 and 123 are enclosed. In addition, under section 3(1) and 3 (3) of POTA, the definition of terrorist acts includes acts calculated "to strike terror in any section of the people". (The term 'people' is widely interpreted to mean people anywhere. That the Al-Qaeda, which has not yet been found to be operating in India, has been banned in India under POTA is indicative of this). In addition, the Arms Act, 1959; the Explosives Act, 1884 and the Explosive Substances Act, 1908 contain very stringent punishments in regard to such acts.

The Security Council Act, 1947 empowers the Government of India to implement the decisions of the United Nations Security Council adopted under Chapter VII of the UN Charter. Furthermore, a proposal to notify an order in respect of Resolution 1373 under the Act is at an advanced stage of consideration of the authorities. Similarly, a proposal to give effect to the provisions of the International Convention for the Suppression of the Financing of Terrorism, 1999 either under the existing laws or, if necessary, by way of an enabling legislation is currently under consideration. Once these exercises are completed, the obligations contained in sub-paragraphs 2(d) and 2(e) of Resolution 1373 would be implemented.

It would thus be clear that, at present, we have adequate laws and enforcement machinery for purposes of taking action against persons who finance, plan, facilitate or commit terrorist act against other States and their citizens.

Que. 1.9 Is the existence of a bilateral agreement or arrangement a pre-requisite for India before it can offer legal assistance or extradite criminals to other countries?

Ans. Yes, the existence of a bilateral agreement or arrangement is a pre-requisite before India can extradite a criminal to another country. As far as the offer of legal assistance is concerned, under section 166B of the Criminal Procedure Code (Cr.PC), 1973 (copy enclosed), upon receipt of a letter of request from a court or an authority of another country for examination of any person, etc., the Government of India would forward it to the relevant court to proceed appropriately. In addition, India has a number of mutual legal assistance agreements/treaties with other countries. India continues to be willing to enter into such agreements with other countries.

Que. 1.10 Effective implementation of sub-paragraph 2(e) of the Resolution requires that States ensure that persons who participate in the financing, planning, preparation or preparation of terrorist acts or support such acts are brought to justice either by submitting the case without undue delay to their respective competent authorities for the purpose of prosecution or by extraditing these persons. In that context, please clarify whether, according to Section 34 of the Extradition Act, a person can be prosecuted in India if he or she has committed an offence abroad to which no bilateral extradition treaty is applicable or if India decides not to extradite this person.

Ans. Section 34 of the Extradition Act 1962 provides that an extradition offence committed by any person in a foreign state shall be deemed to have been committed in India and such persons shall be liable to be prosecuted in India for such an offence. Extradition offences have been defined under section 2 to mean:-

(i) in relation to a foreign state being a treaty state, an offence provided for in the extradition treaty with that state:

(ii) in relation to a foreign state other than a treaty state an offence punishable with imprisonment for a term, which shall not be less than one year under the laws of India or of a foreign state and includes a composite offence. By composite offence is meant "an act or conduct of a person which occurred, whole or in part in a foreign state or in India but its effect or extended effects, taken as a whole would constitute an extradition offence in India or in a foreign state as the case may be."

Under section 34 of the Extradition Act, a person can be prosecuted in India if India decides not to extradite such a person. In the absence of a bilateral treaty, an arrangement can be worked out or, if applicable, an international Convention containing a provision for the obligation to extradite or prosecute can be invoked.

Que. 1.11 According to the supplementary report, even in cases where there are no extradition treaty concluded by India with another country, the Central Government may, by notified order, treat any convention, to which India and the foreign state are parties, as an extradition treaty concluded by both states and providing for extradition in respect of the offences specified in the relevant international conventions and protocols against terrorism. Has the Central Government ordered to treat these conventions and protocols between India and all respective parties to the international legal instruments as such extradition treaties?

Ans. Steps are being taken to notify all anti-terrorism Conventions under sector 3 of the Extradition Act so that in the absence of a bilateral Extradition Treaty or arrangement, such Conventions/Protocols may be treated as a basis for extradition between India and a Party to such Convention/Protocol.

The attention of the Committee is drawn to a recent instance of such an order. A notification has been issued in regard to Portugal. A copy of the text of the notification is enclosed.

Que. 1.12 Sub-paragraph 3(d) of the Resolution requires all States to become parties as soon as possible to all the relevant international conventions and protocols relating to terrorism. The CTC would appreciate receiving information on the progress made regarding the ratification by India of the International Convention for the Suppression of the Financing of Terrorism.

Ans. The Government of India has decided very recently to ratify the International Convention for Suppression of the Financing of Terrorism.

Que. 1.13 Please explain how you have implemented the Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, the Convention on the Marking of Plastic Explosives for the Purpose of Detection and Convention on the Physical Protection of Nuclear Material into your domestic legislation.

Ans. Implementing legislation for the Protocol on the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation supplementary for the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation is reflected in The Suppression of Unlawful Acts against the Safety of Civil Aviation (Amendment Act), 1994. Legislation to implement the Convention of Marking of Plastic Explosives is under process.

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Security Council

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 2 January 2003 (S/2003/21).

The Counter-Terrorism Committee has received the attached third report from Costa Rica submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for this letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-34282 (E) 140503 150503

Annex

[Original: Spanish]

Letter dated 31 March 2003 from the Permanent Representative of Costa Rica to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to transmit herewith the third report of Costa Rica on the measures taken in implementation of Security Council resolution 1373 (2001) (see enclosure).

This report was prepared in response to the note from the Chairman of the Counter-Terrorism Committee dated 25 November 2002. It includes a confidential annex containing the country's draft anti-terrorism legislation.

I would be grateful if you could arrange for this report to be published as an official document of the Counter-Terrorism Committee. However, I would ask you to ensure that its annex remains confidential.

(*Signed*) Bruno **Stagno**
Ambassador
Permanent Representative

Enclosure

Third report of the Republic of Costa Rica on the measures taken to follow up United Nations Security Council resolution 1373 (2001)

Submitted to the United Nations Security Council Counter-Terrorism Committee, in response to the Chairman's note

March 2003

Third report of the Republic of Costa Rica on the measures taken to follow up United Nations Security Council resolution 1373 (2001) submitted to the United Nations Security Council Counter-Terrorism Committee, in response to the Chairman's note

The Government of Costa Rica is pleased to submit to the United Nations Security Council Counter-Terrorism Committee its replies to the questions set forth in note S/AC.40/2002/MS/OC.197 from the Committee's Chairman, dated 25 November 2002. The replies follow the same numbering used in the note.

1.2 Provisions specifically criminalizing the wilful provision or collection of funds by the nationals of Costa Rica, or in its territory, with the intention that the funds should be used in order to carry out terrorist acts, even if the only related terrorist act takes place outside the country or no related terrorist act has actually occurred.

As explained in the previous report, financing of terrorist acts is not characterized as a specific offence in our Penal Code (Act No. 4573 of 4 May 1970 and its amendments), but the definitions of accessory (art. 47), co-perpetrator (art. 45) and instigator (art. 46) could apply to persons who finance terrorism-related offences contained in the Code (for a list of such offences, see first report). In the case of terrorist acts conducted outside the country, or not actually completed, articles 274 and 374 of the Penal Code set forth penalties for persons belonging to national or international organizations whose aim is to commit terrorist acts. This offence has been interpreted as encompassing the financing of terrorist acts, should it prove necessary to punish such acts under current legislation.

Nevertheless, in order to fulfil the requirements of the Counter-Terrorism Committee, at the initiative of the Ministry of Foreign Affairs and Worship and the Ministry of Public Security, the Interior and Police, an inter-agency commission was formed to review Costa Rican legislation on terrorism. After making a detailed analysis of Costa Rican anti-terrorism legislation, the Commission prepared a draft Law on the Strengthening of Legislation against Terrorism, which introduces amendments into both the Penal Code and the Act on narcotic drugs, psychotropic substances, unauthorized drugs, money-laundering and related activities (Act No. 7786 of 30 April 1998, as amended by Act No. 8204).

Given the requirements of the Costa Rican constitution and laws, it was decided that the best way specifically to criminalize the financing of terrorism or recruitment of persons to commit terrorist acts, within or outside the country, even when terrorist acts do not actually occur, was to provide expressly that financing and recruitment are forms of membership in an unlawful association whose aim is to commit terrorist acts.

This was found to be the best solution, in that the Costa Rican constitution and laws require a specific action to have occurred and a legal right to have been violated in order for an offence to be established. In this respect, the draft act is intended to amend articles 274 and 374 of the Penal Code, which relate to unlawful association. Article 274 provides for an aggravated offence when the association is aimed at the commission of terrorist acts, and the proposed amendment includes "the collection or provision of funds or the recruitment of persons for the purpose of committing terrorist acts".

An aggravated offence is also provided for in article 374, which refers to international associations and which would be applicable when the offence is committed outside the country. To that end, the draft law proposes to amend the current wording in order to refer to international organizations aimed, in particular, at the commission of acts of ... "terrorism, within or outside the country, including the collection or provision of funds or the recruitment of persons for the purpose of committing terrorist acts".

Consequently, if the terrorist act is committed in the country it will be punishable according to the applicable offences (see first report); a person who recruits others or attempts to finance terrorist acts for commission within the country would be prosecuted on the basis of article 274; and if the intent of the association is to commit a terrorist act outside the country, prosecution would take place on the basis of article 374, which provides for an even greater penalty.

The draft Law on the Strengthening of Costa Rican Legislation against Terrorism is to be submitted by the executive to the Legislative Assembly for consideration and approval as soon as possible.

It should also be noted that a draft general reform of the Penal Code is currently under discussion by the Legislative Assembly's Standing Committee on Legal Affairs; in addition to possible terrorism-related offences, it includes a specific offence of terrorism punishable by 10 to 24 years' imprisonment when it is aimed at:

- Creating a common danger through intent to terrorize the population or a specific population group
- Producing reprisals of a religious or political nature, or
- Obtaining a measure or concession from a public authority.

Once this separate offence of terrorism is in effect, it will be easier to apply the definitions of co-perpetrator and accessory in cases involving the financing of terrorist acts. A proposal is also expected to be made whereby the general draft amendments to the Penal Code would increase the penalties for unlawful association if the aim of the organization in question is to commit terrorist acts within or outside the country, including collection or provision of funds and recruitment of persons. Such actions would in and of themselves imply that the perpetrator belongs to the organization.

1.3 Procedure for legally freezing funds, financial assets or economic resources of persons and entities, resident or non-resident, who commit or attempt to commit terrorist acts or who participate in or facilitate the commission of terrorist acts, including the financing of terrorism.

In Costa Rica the Act on narcotic drugs, psychotropic substances, unauthorized drugs, money-laundering and related activities (Act No. 7786 of April 1998, as amended by Act No. 8204) establishes procedures for freezing funds suspected of deriving from the commission of serious offences.

The Superintendents of Financial Institutions, Securities and Pensions issue guidelines and order mechanisms for applying the financial controls provided for in Act No. 7786; based on these guidelines, the institutions in question determine whether there has been a suspicious transaction (regarding the frequency or amount

of deposits, the fact that they were not carried out in the customary manner or because there are suspicions regarding a particular individual or corporate entity and inform the respective Superintendent. Once the suspicious transaction has been detected, the respective Superintendent informs the Financial Analysis Unit of the Costa Rican Drug Institute, which determines whether there is sufficient evidence for continuing an investigation at the criminal level, through the Public Prosecutor's Office and the Unit on Money-Laundering of the Judicial Investigation Organization (OIJ). When sufficient evidence exists, the Public Prosecutor's Office requests the judge hearing the case to submit a judicial order lifting banking confidentiality and freezing the funds; the order is carried out by the OIJ Unit on Money-Laundering, which transmits it directly to the financial institution.

Further information is found in the following provisions:

"*Article 24. Financial entities subject to the provisions of this section must pay special attention to suspicious transactions, such as those not carried out in the customary manner and those which, while not significant, take place regularly without any obvious economic or legal basis. These provisions are applicable to supervisory and regulatory bodies.*"

"*Article 25. If it is suspected that the transactions described above constitute or are related to illicit activities, including transactions deriving from transfers made to or from the country, financial entities must immediately report them confidentially to the corresponding oversight body, which shall refer them at once to the Financial Analysis Unit.*"

"*Article 33. When an offence relating to the laundering of money is investigated, the Department of Public Prosecution shall request the competent court or authority, at any time and without prior notification or hearing, to issue a seizure or detachment order or to take some other precautionary measure aimed at preserving the availability of related property, proceeds or instrumentalities with a view to possible confiscation.*

This provision includes the freezing of deposits under investigation at national or foreign institutions as referred to in articles 14 and 15 of this Act, in compliance with the relevant statutory provisions."

"*Article 34. Judges may also order that the documentation or evidentiary items which institutions referred to in articles 14 and 15 of this Act have in their possession be handed over to them if required for an investigation. The decision in question shall duly substantiate the need for the furnishing of the report or evidentiary item.*"

"*Article 86. Every financial entity or entity that forms part of a financial group shall have the obligation to protect any information, documents, assets and money that may be used as evidence or proof in the investigation or in judicial proceedings. The said financial entity shall freeze the money or assets that are deposited or held in safekeeping or shall deposit them in the Central Bank of Costa Rica and inform the authorities of the measures taken. The foregoing obligations shall commence from the moment that the entities receive formal notification from the authorities indicating that an investigation or criminal proceedings have begun, or instructing the entities to file the appropriate report.*

Such measures shall not entail, either for the entities or the officials who implement them, any administrative, civil, criminal or any other liability, provided that they have acted in good faith."

"*Article 123. The Financial Analysis Unit shall request, compile and analyse records, forms and reports of suspicious transactions received from monitoring bodies and the institutions referred to in articles 14 and 15 of this Act, with a view to centralizing and analysing such information in order to investigate money-laundering activities. Such information shall be brought to the notice of the Directorate-General, which shall communicate it to the Department of Public Prosecution for the appropriate purposes.*

State organizations and institutions, in particular the Ministry of Finance, the Central Bank of Costa Rica, the Public Registry and public oversight agencies, as well as the entities referred to in articles 14 and 15 of this Law, shall be obliged to furnish the information required for the investigation of the activities and offences covered by this Law, at the request of the Unit, with the countersignature of the Directorate-General.

The Financial Analysis Unit shall also be responsible for locating and tracing property of economic interest obtained in the crimes defined in this Law.

The Department of Public Prosecution shall order financial investigations, which shall be conducted simultaneously with, or subsequent to, the investigation of the relevant offences."

As can be seen, funds cannot be frozen without a judicial order; to that end, the Financial Analysis Unit submits the relevant information to the Department of Public Prosecution in order that it may open criminal proceedings giving legal justification to the order. The funds of individuals or corporate entities being prosecuted in another country may also be frozen; this requires a rogatory letter from the other country requesting such a judicial measure (further details of this procedure are given in the next reply).

To relate these provisions to the concerns of the Counter-Terrorism Committee, as indicated in the previous reply, the draft law prepared by the Inter-Agency Commission for the Revision of Costa Rican Legislation includes amendments to the Act on Narcotic Drugs which make it possible to freeze funds intended for the financing of terrorism. To that end, a series of amendments to the Act expand the powers of the Costa Rican Drug Institute to enable it to take action to punish and prevent, in addition to money-laundering, the financing of terrorism, including the possibility of conducting investigations and freezing funds.

In addition to these amendments to the Act, proposed amendments to the Penal Code would make the financing of terrorism an offence related to unlawful association, either national (art. 274) or international (art. 374); in the context of a judicial investigation into a case involving such an offence, a judicial order would be issued to freeze and confiscate resources if there are reasons to believe that they would be used to finance terrorism, even when they are from legitimate sources.

In accordance with the foregoing and pursuant to the constitutional and legal requirements of the Costa Rican legal order, a judicial order will always be required in order to freeze and confiscate funds if there are reasons to believe that they would

be used to finance terrorism. Such an order may be issued in response to a complaint lodged by the Costa Rican Drug Institute, or through a rogatory letter from another State that is prosecuting individuals or corporate entities for terrorism-related offences. In any event, judicial proceedings must always have been initiated against persons whose resources are going to be frozen. The lists prepared by the United Nations Security Council may be of use to the Costa Rican Drug Institute and the financial institutions conducting investigations in determining whether the persons appearing on them have resources in Costa Rica; should they be found to possess such resources, however, the freezing of funds would require a judicial order attesting to the fact that the person in question is being prosecuted in Costa Rica or abroad.

1.4 Please explain how Costa Rica is able, on request of another country, to freeze funds in Costa Rica that are linked to terrorists outside Costa Rica.

In cases where another country requests the freezing of funds in Costa Rica belonging to persons or organizations located in another country and accused of belonging to a terrorist organization or intent to finance terrorist activities, the requesting Government must send a rogatory letter to the judiciary in Costa Rica; the letter is transmitted to the Secretariat of the Supreme Court of Justice by the Ministry of Foreign Affairs and Worship. The Secretariat sends it to the First Division of the Court, which refers it to the rota judge, who issues a judicial order lifting bank secrecy and freezing funds; the order is also implemented by the OIJ Unit on Money-Laundering with regard to the financial institutions in which the suspicious transactions have been conducted.

1.5 Monitoring mechanisms (for example, registration and auditing requirements) to ensure that the funds collected by non-governmental organizations or organizations claiming to have charitable, social or cultural goals are not diverted to other purposes, in particular to the financing of terrorism.

Non-governmental organizations in Costa Rica mainly take the form of associations or foundations.

The establishment, operation and dissolution of associations are regulated by the Associations Act, Act No. 218 of 8 August 1939. Article 1 of the Act states that the scope of the Act shall include associations for scientific, artistic, athletic, charitable, recreational and any other lawful purposes that are not solely and exclusively oriented towards profit.

Regarding the monitoring of associations, article 4 of the Act states that the executive branch "*... is responsible for authorizing the establishment of associations in the country and the incorporation of foreign associations, for monitoring their activities and for dissolving those that pursue unlawful purposes or undermine morality or public order, in accordance with the provisions of this Act*".

It should be noted that one of the associations' monitoring obligations is to be entered in the Associations Register, in accordance with article 5 of the Act. In addition, article 7 (e) of the Ministry of Justice Organization Act, Act No. 6739 of 28 April 1982, states that the powers of the Ministry of Justice include that of authorizing "*... the operation of associations established in accordance with Act No. 218 of 8 August 1939, or registering their statutes, as well as the legal capacity of their boards of directors*".

It should also be noted that, in accordance with article 16 of Act No. 218, associations domiciled abroad may conduct activities in Costa Rica, but only if they establish a branch office that meets the requirements of the Act and have their own legal capacity, or if their statutes are entered in the Associations Register and a general representative is appointed, in addition to fulfilling the other requirements of civil law for legal persons conducting activities in the country. The article also states that the actions in Costa Rica of associations domiciled abroad which do not comply with the aforementioned conditions and requirements shall be null and void.

Finally, it should be mentioned that, under article 33 of the Associations Act, the following constitute unlawful actions subject to penalties in the form of fines: running a secret association, even when its goals are lawful, keeping unsealed books or keeping books that are more than six months behind, in the case of a secretary or treasurer of an association, or denying access to the competent authorities. It is also considered unlawful for members of the board of directors to permit the association's funds to be used or activities to be carried out for purposes other than the association's goals as indicated in the statutes. In addition, article 34 stipulates that associations will be regarded as unlawful and therefore ordered dissolved when they appear to be practising activities that are punishable by law, contrary to morality or not in conformity with the contents of their statutes.

The legal regime governing foundations is essentially defined in the Foundations Act, Act No. 5338 of 28 August 1973, article 1 of which stipulates that foundations are recognized as having "*... legal personality as state-approved private entities established for non-profit purposes and with the goal of using the organization's funds to conduct or help conduct activities of an educational, charitable, artistic, literary or scientific nature, and in general all activities aimed at improving social welfare*".

Similarly, articles 5 and 6 of the Act stipulate that foundations acquire legal personality once they are registered in the corporations section of the Public Registry, but that, as part of the registration process, an extract of the foundation's articles of incorporation shall be published in the Official Gazette. Dissolutions, mergers, and any other acts that change the foundation's structure must also be published.

With regard to monitoring mechanisms, in addition to the registration mentioned above, article 11 of the Act requires both the executive branch and the municipality of the canton in which the foundation is domiciled to appoint representatives to each foundation's Administrative Board. In this line of ideas, Executive Decree No. 29744 of 29 May 2001, which entered into force on 4 September 2001, contains the Regulations governing aforementioned article 11, article 6 of which spells out the functions of the executive's representative to the foundation's board of directors, which include that of ensuring that the foundation's activities are in conformity with its founding charter and the regulations governing it in order that its goals may be faithfully met.

Article 15 of the Associations Act stipulates that the Controller-General shall "*monitor the operations of foundations, by any means and at any time he deems appropriate*", and that, if "*any examination reveals an irregularity, he shall inform the Attorney-General of the Republic, in order that proceedings may be initiated in the courts, if appropriate*". It should be noted that the Organization Act governing the Office of the Controller-General, which entered into force in 1995, stipulates

that this power shall be limited to foundations that administer public funds or funds of public origin. In such cases, in order to obtain a certificate of suitability organizations are required to undergo an external audit.

In addition, article 18 of the aforementioned Act No. 5338, as amended by Act No. 8151 of 14 November 2001, stipulates that foundations must have an internal auditing office, "*... which shall exercise its functions in conformity with the legislation governing the area it monitors, and in accordance with the handbooks of technical rules governing internal auditing and control issued by the Office of the Controller-General of the Republic*".

In conclusion, one of the means of channelling resources for social welfare or similar purposes is the trusteeship contract, the legal regime for which is contained in the Commercial Code and which varies according to the trustee. If a financial intermediary serves as administrator, he is subject to supervision by the General Superintendent of Financial Institutions.

Current legislation also provides for a few official entities that are bound by law to regulate non-governmental organizations administrating public funds; these include the Joint Institute for Social Aid, the National Council on Older Adults and the Social Welfare Board.

Like the aforementioned controls on the operations of non-governmental organizations, these financial controls apply to all individuals and corporate entities that conduct operations and transactions within the national financial system.

1.6 Monitoring of isolated financial transactions in which professionals are involved.

Under Act No. 7786, as amended by Act No. 8204, individuals or corporate entities that carry out the transactions mentioned in article 15 are subject to supervision as provided by the Act. This supervision, therefore, applies to the following transactions:

(a) Regular or substantial currency exchange transfer and operations using instruments such as checks, bank drafts and bills of exchange;

(b) Regular or substantial operations involving the issue, sale, encashment or transfer of traveller's cheques or postal money orders;

(c) Regular or substantial transfers of funds carried out by any means;

(d) The administration of trust funds or any type of administration of funds by individuals or corporate entities that are not financial intermediaries.

Article 16 of Act No. 7786 establishes monitoring mechanisms to detect and avoid suspicious transactions:

(a) To obtain and preserve information concerning the true identity of persons for whose benefit an account is being opened or a transaction is being carried out if doubts exist as to whether such customers are acting for their own benefit, particularly in the case of corporate entities which are not conducting commercial, financial or industrial operations in the country where they have their headquarters or domicile;

(b) To maintain named accounts. Anonymous accounts, numbered accounts or accounts appearing under fictitious or false names may not be held;

(c) To record and verify, by reliable means, the identity, representational function, domicile, legal capacity, occupation or corporate objective of persons and other identification particulars concerning them, whether those persons be regular or occasional clients. Such verification shall be carried out by means of identity documents, passports, birth certificates, driving licences, articles of incorporation and association or any other documents, whether official or private. It shall be carried out especially when business relations are being established, particularly when new accounts are being opened, deposit books are being provided, fiduciary transactions are being conducted, safe-deposit boxes are being rented or cash transactions in excess of ten thousand United States dollars (US$ 10,000) or the equivalent in other foreign currencies are being executed;

(d) To maintain throughout the course of an operation, and for at least five years following completion of the transaction, records of the information and documentation required under this article;

(e) To maintain for a minimum period of five years records of their customers' identity, books of account, commercial correspondence and financial operations so as to enable a transaction to be reconstructed or concluded.

In addition, article 20 establishes the obligation for financial institutions to record on a special form any transaction of $10,000 or more; article 24 requires them to report financial transactions that are suspicious because they do not conform to normal transaction patterns and those which are not significant but regular, with no evident economic or legal basis; article 25 requires these transactions to be reported to the relevant oversight body, which will refer the matter to the Financial Analysis Unit.

Therefore, both professionals and members of the public who conduct transactions in the framework of the institutions supervised under the system set up by Act No. 7786 are subject to the foregoing measures.

In any case, in order to extend this regulation to cover some isolated transactions that could be used to finance unlawful acts, including terrorism, in response to the concern expressed by the Counter-Terrorism Committee, the proposed amendment to this Act contained in the draft Law on the strengthening of legislation against terrorism adds a new article (15 bis) which states:

> "Article 15 BIS. Individuals and corporate entities which are engaged in economic activities other than those mentioned in articles 14 and 15 of this Act must report to the Costa Rican Drug Institute any commercial transactions carried out in a repeated manner and in cash, including transfers to or from another country, in national or foreign currency, of amounts equal to or greater than ten thousand United States dollars (US$ 10,000) or its equivalent in colones. Such economic activities include the following:
>
> (a) Bargain and sale or conveyance of real estate, weapons, precious stones and metals, works of art, jewellery, automobiles and securities;
>
> (b) Casinos, wagers and other operations related to games of chance;
>
> (c) Credit card operations;
>
> (d) Professional services.

For these purposes, the forms produced by the Costa Rican Drug Institute shall be utilized."

1.7 Measures taken to criminalize the recruitment of persons to commit acts of terrorism either inside or outside the country.

The current Penal Code does not specify that the recruitment of persons to commit acts of terrorism is a crime but, as with the financing of terrorism, the definitions of accessory, co-perpetrator and instigator could be applied to those who recruit persons to commit terrorist acts that are actually carried out.

Furthermore, as explained earlier (see reply to question 1.2), in cases where terrorist acts are executed outside the country, or are not actually committed, articles 274 and 374 of the Penal Code establish penalties for belonging to national or international organizations whose aim is to commit terrorist acts. With due respect to the Counter-Terrorism Committee, we do not share its interpretation of our criminal legislation, to the effect that if the person engaging in recruitment does not belong to a criminal organization he could not be punished under current legislation. In reality, the offence of "unlawful association" arises as soon as at least two persons agree to commit a crime. Therefore, even if the recruiter does not belong to a terrorist organization, from the moment he recruits at least one other person he has committed the offence of unlawful association.

In any case, the draft Law on the strengthening of legislation against terrorism mentioned in the reply to question 1.2 amends the corresponding articles (274 and 374) so that recruitment of persons is expressly mentioned in the law as a form of participation in the offence of unlawful association, even if the terrorist act is not executed, and, in the case of article 374, when it is to be carried out abroad.

1.8 Measures taken by Costa Rica to criminalize the use of its territories for the purpose of committing terrorist acts against other States or their citizens or for the purpose of financing, planning and facilitating of terrorist acts against other States or their citizens, even though no related terrorist acts have actually been committed or attempted.

Current legislation regarding unlawful association of an international nature (Penal Code, art. 374) does not spell out whether the offences for which the association was established must be committed inside or outside the country. Nevertheless, we believe that it can be interpreted in both ways, especially regarding article 374 which mentions the crimes of trafficking and terrorism, which usually have transnational implications. In speaking of terrorist acts, it does not specify whether they are only against States or only against citizens of other countries; therefore, it is understood that it would apply in both cases.

Nevertheless, for the purpose of eliminating any doubt in the interpretation, the draft Law on the strengthening of legislation against terrorism proposes that article 374 should be amended to indicate expressly that the aim of the association is "to commit acts of terrorism inside or outside the country".

1.9 According to the supplementary report, terrorism is considered an international crime. In this context, please confirm that article 7 of the Penal Code has the effect that a person who is alleged to have committed a terrorist act outside Costa Rica can be punished under Costa Rican law for that offence. If not, how would Costa Rica deal with such a person if the person were not

extradited (for example, if no extradition treaty exists with the requesting state), in order to meet the requirement of subparagraph 2 (e) of resolution 1373? Please provide the full text of articles 6, 7, 8 and 374 of the Penal Code.

First of all, the text of the requested articles follows:

Possibility of initiating proceedings for punishable acts committed in other countries

Article 6

"Legal proceedings may be initiated for punishable acts committed in other countries, and Costa Rican law may apply, when such acts:

1. Produce or may produce effects wholly or in part in the national territory;

2. Were committed by persons in the service of Costa Rica, and such persons have not been tried in the place where the acts were committed owing to diplomatic immunity or their immunity of office; and

3. Are perpetrated against a Costa Rican or the rights of a Costa Rican."

International crimes

Article 7

"Irrespective of the provisions in force in the place where a punishable act is committed and the nationality of the perpetrator, persons committing acts of piracy, genocide, counterfeiting of money, credit instruments, banknotes and other bearer bonds; engaging in the trafficking of slaves, women or children; engaging in the trafficking of narcotics or obscene material or committing other punishable acts against human rights as stipulated in treaties to which Costa Rica is a party or in this Code shall be subject to punishment under Costa Rican law."

How the aforementioned crimes may be prosecuted

Article 8

"For the offences named in article 5 to be open to prosecution in Costa Rica, all that is required is action by the State. For the offences contemplated in articles 6 and 7, the offender must be in the national territory. For those in article 6, proceedings may commence when a charge is laid against the defendant; for those in article 7, criminal proceedings may be instituted only through a competent authority."

It is also appropriate to give the text of article 5 governing extraterritoriality, to which article 8 of the Penal Code of Costa Rica refers.

Extraterritoriality

Article 5

"The criminal law of Costa Rica shall also apply to punishable laws committed abroad whenever:

1. they impugn the internal or external security of the State, or its economy, and

2. they are committed against the public administration or, by officials in its service, whether Costa Rican citizens or others."

International crimes

Article 374

"A sentence of 10 to 15 years' imprisonment shall be imposed on anyone heading or participating in international organizations that engage in trafficking of slaves, women, children or drugs or in acts of terrorism, or that violate provisions of human rights treaties to which Costa Rica is a party."

In accordance with current legislation, unlawful international association to commit terrorist acts is covered under Chapter XVII concerning offences against human rights. As stated earlier, in accordance with article 7 of the Penal Code, anyone who commits "punishable acts against human rights as stipulated in treaties to which Costa Rica is a party" shall be subject to punishment. In other words, unlawful association to commit terrorist acts shall always be punishable in Costa Rica even when the acts are committed outside the country, in the same way as human rights violations that may occur as a result of terrorist acts. In any case, as explained above, the draft Law on the strengthening of Costa Rican legislation against terrorism includes a proposed amendment of article 374 to include an express reference to terrorist acts committed outside the country.

It should also be noted that Costa Rican law does not make extradition subject to the existence of an extradition treaty. The Extradition Act (Act No. 4795 of July 1971) and its amendments govern the conditions and general procedure for extradition to and from countries with which no treaties exist, and for extradition to and from countries with which treaties do exist. The general extradition procedure governed by the Act is applicable to all perpetrators, accomplices or accessories awaiting trial or serving sentences for crimes committed outside national territory.

Limitations on extradition are set forth in article 3 of the Act when the following circumstances occur:

(a) The person sought is Costa Rican, in which case he will be tried before the courts;

(b) The extradition request is based on acts that are or have been the subject of proceedings in Costa Rica;

(c) The person sought is being tried in Costa Rica for another offence preceding the request, in which case extradition can be ordered once he is acquitted or has served the sentence for this other offence;

(d) The act was not an offence in Costa Rica or the statutory limitation period for the offence or the penalty has expired;

(e) The sentence imposed for the alleged offence is under one year of imprisonment and the accused is ordered held in pre-trial detention without a definite charge;

(f) The offence was not committed in the territory of the requesting State or did not produce effects in that State;

(g) The offence is a political offence or associated with a political offence;

(h) The purpose of the extradition is political;

(i) The offences would be punishable by execution, except when the requesting State undertakes to impose the penalty immediately below this; if not, the case will be tried in Costa Rica;

(j) The accused would have to appear before a special tribunal or court;

(k) The accused has been granted political asylum.

Finally, it should be noted that article 8 of the draft Penal Code, concerning extraterritoriality, allows for the possibility of initiating legal proceedings in Costa Rica for acts committed abroad, when they jeopardize the internal or external security of the State, in addition to crimes against humanity and other international crimes. The draft Penal Code includes unlawful association and the offence of terrorism in Chapter X, Offences against Public Security.

1.10 Please explain whether Costa Rica intends to introduce legislation for providing mutual assistance related to terrorism, in order to facilitate assistance to any requesting country. Does the Extradition Act provide for extradition on the basis of treaties only?

Costa Rica has signed the following conventions on criminal or legal mutual assistance:

(a) Central American Treaty on Mutual Legal Assistance in Criminal Matters, signed on 29 October 1993 and ratified by Act No. 7696 of 30 October 1997;

(b) Treaty on extradition and mutual juridical assistance in criminal matters between Costa Rica and Mexico, signed on 13 October 1989 and ratified by Act No. 7469 of 20 December 1994;

(c) Convention on judicial assistance in criminal matters between Costa Rica and Paraguay (pending approval by the Legislative Assembly);

(d) Convention between Costa Rica and Argentina on mutual judicial assistance against illicit drug trafficking (pending approval by the Legislative Assembly);

(e) Memorandum of understanding on judicial cooperation between Costa Rica and Colombia (primarily for combating illicit drug trafficking);

(f) Inter-American Convention on Mutual Assistance in Criminal Matters (submitted to the Legislative Assembly for its approval).

Moreover, under the draft Law on the strengthening of legislation against terrorism, the phrase **"as well as crimes related to the financing of terrorism"** has been added to articles 30 and 31 of Act No. 7786, amended by Act No. 8204, concerning the cooperation that must be provided by the Costa Rican Drug Institute and by entities charged with oversight and supervision; the institutions subject to the provisions of the law; the competent authorities of other States; the investigations, trials, and procedures referring to crimes addressed by this Act; and international

cooperation agreements signed by entities of the national financial system with a view to ensuring the free transfer of information related to accounts opened in other States and linked to investigations, trials and procedures related to crimes typified in this Act. It is also important to note that article 103 of the aforementioned Act states: "Within its sphere of competence, the Institute may agree with foreign authorities to conduct individual or joint investigations, in accordance with the terms of each legislation".

1.11 Please provide a progress report of the ratification by Costa Rica of the six international instruments relating to terrorism that are in the process of being ratified. Please outline the provisions that give effect to those instruments in domestic legislation.

The current status of the ratification process regarding conventions and protocols that Costa Rica either has already ratified or will ratify is as follows:

1. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, signed at Rome on 10 March 1988. Signed by Costa Rica. Approved by Act No. 8258 of 18 April 2002, and published in Official Gazette No. 204 of 23 October 2002. The instrument of ratification has been submitted to the International Maritime Organization.

2. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, signed at Rome on 10 March 1988. Signed by Costa Rica. Approved by Act No. 8264 of 23 April 2002, and published in Official Gazette No. 203 of 22 October 2002. The instrument of ratification has been submitted to the International Maritime Organization.

3. International Convention for the Suppression of the Financing of Terrorism, signed at New York on 9 December 1999. Approved by Act No. 8257 of 18 April 2002, and published in Official Gazette No. 204 of 23 October 2002. Ratified on 24 January 2003.

4. International Convention against the Taking of Hostages, signed at New York on 17 December 1979. Not signed by Costa Rica. Approved by Act No. 8253 of 18 April 2002, and published in Official Gazette No. 203 of 22 October 2002. Ratified on 24 January 2003.

5. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Signed at New York on 15 November 2000, and signed by Costa Rica. Approved by Act No. 8315 of 16 September 2002, and published in Official Gazette No. 212 of 4 November 2002. The instrument of ratification has been submitted to the United Nations.

6. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980. Not signed by Costa Rica. Approved by Act No. 8265 of 23 April 2002, and published in Official Gazette No. 221 of 15 November 2002. The instrument of accession has been submitted to the United Nations.

7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988. Approved by Act No. 8263 of 23 April 2002, and published in

Official Gazette No. 223 of 19 November 2002. The instrument of ratification has been submitted to the International Civil Aviation Organization (ICAO).

8. Protocol against the Smuggling of Migrants by Land, Sea or Air, supplementing the United Nations Convention against Transnational Organized Crime. Signed at New York on 15 November 2000. Signed by Costa Rica. Approved by Act No. 8314 of 16 September 2002, and published in Official Gazette No. 221 of 15 November 2002. The instrument of ratification has been submitted to the United Nations.

9. United Nations Convention against Transnational Organized Crime. Signed at New York on 15 November 2000. Signed by Costa Rica. Approved by Act No. 8302 of 29 August 2002, and awaiting publication.

10. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime. Approved by Act No. 8317 of 3 October 2002, and awaiting publication.

11. Inter-American Convention against Terrorism. Signed on 3 June at Bridgetown, Barbados. Signed by Costa Rica. Under review before the International Relations Committee.

With regard to the domestic legislation giving effect to those instruments, Annex 1 of the second report of the Republic of Costa Rica concerning measures taken to implement United Nations Security Council resolution 1373 (2001) provided a table showing the main provisions of international conventions on terrorism and related national legislation.

1.12 According to the supplementary report, terrorism is not considered a political crime in Costa Rica. However, according to the same report, article 3 of the Extradition Act states that extraditions shall not be offered or granted when a crime is political or politically related under Costa Rican law. In addition, some terrorist-related offences, mentioned in the report, are said to be crimes that can be considered political. As subparagraph 3 (g) of the resolution requires States not to refuse extradition of alleged terrorists on grounds of claims of political motivation, please explain how Costa Rica intends to deal with this requirement entirely.

As indicated in the second report, Costa Rican law does not recognize terrorism and related crimes as political crimes, and they are extraditable. Political crimes are regarded as those that are targeted solely at the political order. Notable in this context is Title XII of the Costa Rican Penal Code, "Crimes against the political authorities and the constitutional order", whose Section I, entitled "Political attacks", includes the following crimes:

Rebellion

Article 294

A prison sentence of two to 10 years shall be imposed on anyone who takes up arms in order to change the Constitution, depose any agencies of the State, or impede, even temporarily, the free exercise of its constitutional faculties or its formation or renewal in legal terms and forms.

Violation of the principle of electoral rotation

Article 295

The penalties set out in the previous article shall apply to anyone who violates the principle of electoral rotation or who fails to obey the duty to place the security forces at the disposal of the constitutional Government.

Propaganda against the constitutional order

Article 296

A prison sentence of six months to three years shall be imposed on anyone engaging in public propaganda with a view to replacing the agencies created by the Constitution by unconstitutional means or to abolishing its fundamental underlying principles.

Rioting

Article 297

A prison sentence of one to four years shall be imposed on anyone who publicly rises up, in a group of 10 or more, to impede the execution of the laws or the decisions of public officials or to force them to take a certain measure or give some form of concession.

Contempt for national symbols

Article 298

A prison sentence of one month to two years and a fine of 30 to 90 days' wages shall be imposed on anyone publicly expressing contempt for or insulting the national flag, crest, or anthem.

Section II sets out the common provisions applicable in the case of political attacks:

Responsibility of instigators or leaders

Article 299

Whenever rebels or rioters shall surrender willingly to the legitimate authorities, or disperse, either before such authorities have issued a warning or because of such a warning, without having committed any other harm beyond a brief disturbance of public order, only the instigators or leaders shall be punishable, and they shall receive half the penalty indicated for the offence.

Conspiracy

Article 300

A prison sentence of one to five years shall be imposed on anyone taking part in a conspiracy involving three or more persons to commit the crime of rebellion.

Corruption of the security forces

Article 301

Anyone who shall attempt to corrupt the security forces, usurp their mandate, or that of a ship or vessel under their command, or who shall illegally retain a political mandate in order to commit rebellion or riot shall receive half the penalty indicated for the attempted offence.

Infringement of the duty to resist

Article 302

A prison sentence of one month to two years shall be imposed on any public official who fails to resist a rebellion or riot with all available legal means.

Special aggravating circumstances

Article 303

The penalties established under articles 292, 295, 298 and 299 shall be increased by one third in the case of senior or other public security officers participating in the offences described, using the weapons or materials entrusted or provided to them for the performance of their duties.

As was also noted in the second report, certain other crimes, such as treason, sedition and espionage, have traditionally been regarded by legal opinion as political crimes although they are not expressly defined as such in Costa Rican law. The Penal Code lists such crimes under Title XI, **"Crimes against national security"**, which include treason (art. 277) and espionage (art. 288), among others.

Section I
Acts of Treason

Treason

Article 277

A prison sentence of five to 10 years shall be imposed on any Costa Rican citizen taking up arms against the nation or joining with its enemies by providing assistance or relief.

Aggravated treason

Article 278

A prison sentence of 10 to 25 years shall be imposed whenever the offence described in the previous article involves one of the following circumstances:

1. It was carried out in order to subject the nation to foreign domination, whether totally or partially, or to undermine its independence or integrity; or

2. The perpetrator of the offence has attempted to induce or persuade a foreign power to wage war against the nation.

Section II
Crimes compromising the peace and dignity of the nation

Espionage

Article 288

A prison sentence of one to six years shall be imposed on anyone procuring or unduly obtaining secret political or security-related information concerning the nation's defence forces or its foreign relations.

Crimes related to terrorism are addressed in other sections of the Penal Code. For example, article 374 (International crimes) is found under Title XVII, "Offences against human rights"; article 274 (Unlawful association) under Title X, "Offences against public order"; articles 246 (Arson or explosion), 247 (Devastation), 248 (Failure to use defences against disasters), 250 (Manufacture or possession of explosive materials), 251 (Danger of shipwreck and air disaster), 252 (Creating danger for land transport), 253 (Attacks on industrial plants or on energy or communications systems), 258 (Piracy) and 260 (Hijacking or destruction of airplanes) under Title IX, "Crimes against public safety"; article 215 (Kidnapping for extortion, with aggravated penalties for acts of terrorism) under Title VII, "Crimes against property"; and so forth.

In conclusion, none of the above crimes related to terrorism could be considered a political crime. In any event, it is believed that the provision on non-extradition for political or related crimes is intended to guarantee the safeguarding of the rights of the detainee and a fair trial, just like the other exceptions included in the Costa Rican Law on Extradition. Moreover, the country's legislation and judicial apparatus contain enough provisions to prevent other outcomes. As was also mentioned previously, for crimes to be regarded as political crimes it is not sufficient merely to claim that they are such. Some of Costa Rica's extradition treaties even expressly state that terrorism shall be regarded as a political crime for the effects of extradition, as noted in the previous report.

2. Assistance and guidance

The Government of the Republic of Costa Rica welcomes the offer of assistance in implementing resolution 1373 (2001), and respectfully informs you of the two areas in which Costa Rica would be interested in exploring the possibility of assistance:

1. Training of Government officials in matters related to the implementation of resolution 1373 (2001) and to financial oversight, especially in the matter of pensions and securities;

2. Analysis of the institutional legal framework of financial oversight, both to prevent the financing of terrorism and to ensure the legality of capital flows in general. The Government of Costa Rica would therefore be very glad to explore the possibilities offered by the AML/CFT Programme of the International Monetary Fund and the World Bank.

Moreover, Costa Rica is fully prepared to exchange any necessary information regarding investigations under way, as well as to conduct joint investigations. We would also gladly exchange experience in the matter of financial investigations (Costa Rican Drug Institute, Financial Analysis Unit, Financial superintendencies, etc.), especially with any Latin American countries requesting such an exchange. Costa Rica's experts in these and other terrorism-related areas would be happy to provide any assistance that may be requested of them.

United Nations S/2003/454

Security Council

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Letter dated 21 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 November 2002 (S/2002/1284).

The Counter-Terrorism Committee has received the attached third report from the Republic of Croatia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-34210 (E) 080503

Annex

Letter dated 27 March 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Croatia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your letter dated 15 November 2002, conveying some further questions and comments for the consideration of the Government of Croatia with regard to the implementation of Security Council resolution 1373 (2001), I have the honour to submit additional information to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism (see enclosure).

(*Signed*) Zoran **Bošnjak**
Chargé d'affaires a.i.

Enclosure

Third report of Croatia submitted pursuant to Security Council resolution 1373 (2001)

Answers to questions in a letter by the Chairman of the Counter-Terrorism Committee

Implementation measures

1.2 Does the Republic of Croatia by its amendments to the Criminal Code intend to criminalize the collection of funds by nationals of Croatia or in its territory intended to be used in order to carry out terrorist acts? Please provide an outline of the proposed amendments.

Through a Bill of Amendments to the Criminal Code, currently in parliamentary procedure, the Republic of Croatia intends to criminalize or incriminate as criminal acts the procurement of, or preparing means for, removing obstacles to, collection or provision of pecuniary or other financial means, making plans or arrangements with another or taking other action to create conditions for direct performance of criminal acts containing elements of terrorism (anti-state terrorism, international terrorism, hostage taking, hijacking of airplane or ship, endangering the safety of persons under international protection, misuse of nuclear materials, endangering international air traffic and international maritime navigation – criminal acts under articles 170 through 172, 179 and 181).

The content of incrimination in article 169, para. 1 is proposed to be modified, to the effect that the definition of terrorism be changed in relation to the subjective aspect of an offence (guilt), as well as its objective aspect (action); as regards to action, incrimination of the threat to commit a terrorist act is proposed, in conformity with the EU Council Framework Decision of 13 June 2002 on Combating Terrorism, OJ L 164 of 22 June 2002.

After article 187 new articles 187.a and 187.b will be added, reading as follows:

Preparing criminal acts against values protected under international law

Whoever procures or prepares means for, removes obstacles to, collects or provides monetary or other financial means, makes plans or arrangements with another, or takes other action to create conditions for direct performance of criminal acts under articles 156 through 160, 169 through 172, 179 and 181 of this law,

shall be sentenced to imprisonment of one to eight years.

Subsequent assistance to the perpetrator of a criminal act against the values protected under international law

(1) Whoever conceals the perpetrator of a criminal act under articles 156 through 160, 169 through 172, 179 or 181, or provides him with food, clothing, money or takes care of him in another way in order to make his detection or arrest difficult,

shall be sentenced to imprisonment of six months to three years."

The above proposed amendments indicate the intention to tighten the sanctions for criminal acts containing elements of terrorism, which is in conformity with the international conventions and the cited Framework Decision.

Adoption of the amendments to the Criminal Code by the Croatian Parliament is expected in the course of 2003.

The process of ratifying the UN Convention for the Suppression of the Financing of Terrorism is under way. Once ratified and published in the Official Gazette of the Republic of Croatia, this Convention will become part of internal legislation and by its legal force takes precedence over domestic law.

1.3 Please explain whether there are legal or administrative measures in place to ensure that the funds collected by non-profit organizations (e.g., religious, humanitarian or cultural organizations) are not diverted for other than the stated purposes, particularly for financing terrorism. As this requires an appropriate monitoring mechanism, how does Croatia (propose to) ensure that?

When opening an account, foreign non-profit organizations are obliged, in compliance with the Decision on Required Documentation (Official Gazette No. 38/99), to attach a transcript of the Registration Certificate from the Register of Organizations in their country of origin, not older than one month, confirming their legal status, along with a list of signatures of authorized persons.

If it involves a foreign non-profit organization with a registered branch office in Croatia, a Registration Certificate from the Register of Foreign Organizations with the Croatian Ministry of Justice will be required, along with a list of signatures of authorized persons.

In line with the Amended Conditions under which Aliens May Acquire Funds in Domestic Currency (Official Gazette No. 14/96), as well as the Decision on Withdrawing Cash from Foreign Exchange Accounts Owned by Foreign Entities (Official Gazette No. 28/97), all foreign non-profit organizations not having a registered branch office in Croatia shall have limited access to financial resources held on non-resident accounts in terms of depositing and withdrawing cash.

Pursuant to the obligation under the Law on the Prevention of Money Laundering (Official Gazette No. 69/97), deposits of funds in excess of Kn 105,000 (US$ 15,000) on non-resident accounts of foreign non-profit organizations shall be registered with the Office for the Prevention of Money Laundering on the basis of data submitted by the banks with which such non-resident accounts have been opened.

The Office for the Prevention of Money Laundering has analytical mechanisms for identification of transactions which depart from usual business activities, including those of domestic and foreign non-profit organizations. In a new Law on the Prevention of Money Laundering, which is in the parliamentary procedure, this activity will be additionally specified. Pursuant to the new Law on the Prevention of Money Laundering and its bye-laws, identifiers (developed according to eight recommendations of the Financial Action Task Force, the *FATF Recommendations*) focused on the suppression of financing terrorism will be sent to the banks to facilitate identification of dubious transactions of domestic and foreign non-profit organizations. If a bank identifies a dubious transaction, it is obliged to notify such a transaction to the Office for the Prevention of Money Laundering, which in turn must notify the Public Attorney's Office.

1.4 Subpara. 1 (c) requires States to freeze without delay not only the funds and other financial assets or economic resources of persons committing/attempting terrorist acts, but also the funds of persons and entities acting on behalf of, or upon the directions of terrorists. Croatia's supplementary report states that a criminal act needs to be attempted or carried out in order to freeze the financial means. How does Croatia propose to deal with the situation when the funds are suspected of being linked to terrorism, but no terrorist act has yet been committed or attempted?

Pursuant to the provisions of the Law on Criminal Procedure and the Law on the Office for Combating Corruption and Organized Crime (USKOK), the court, prior to initiating an investigation or prior to initiating the proceedings to confiscate material profit, may pass a decision on temporary seizure of financial means under articles 218, 219 of the Law on Criminal Procedure, as well as in the course of the proceedings to ensure the forcible confiscation of funds, income or assets acquired through terrorist acts under art. 44, etc. of the Law on USKOK and the provisions regarding suspicious monetary transactions under art. 39, para. 1 of the Law on USKOK.

1.5 For effective implementation of subparas. 2 (d) and (e), States need to criminalize the use of their country for the purpose of financing, planning and facilitating terrorist acts outside their country against another State or its citizens.The legal provisions in Croatia's Criminal Code do not appear to meet this requirement adequately. Please comment on what actions the Republic of Croatia intends to take in this regard.

Under the provisions of the Croatian Criminal Code (Article 14), punishment is also envisaged of perpetrators who have committed criminal acts outside the territory of the Republic of Croatia. Following the amendments to the Criminal Code in the manner indicated under 1.2 above, association with the intention of commiting terrorist acts, financing and other preparatory actions preceding the commitment of a terrorist act will also be punishable, and the persons providing subsequent assistance to perpetrators of these acts will be sanctioned. Thus, criminal proceedings can be conducted against any person who inside or outside Croatian territory commits a criminal act with terrorist elements, which the Republic of Croatia is obliged to sanction under the provisions of international law. Hence, the Criminal Code and the criminal proceeedings apply likewise to a Croatian national or an alien who inside or outside Croatian territory commits a terrorist act.

1.6 As para. 3 calls upon all States to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, what is the intention of the Republic of Croatia in regard to becoming a party to those conventions to which it is not yet a party?

On 22 November 2002, the Croatian Parliament ratified the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, as well as the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime.

The procedure of ratifying the UN Convention for the Suppression of the Financing of Terrorism is under way.

1.7 Please provide a progress report on the enactment of the Asylum Act and drafting of the Law on International Legal Assistance in Criminal Matters.

The Asylum Bill is currently in its second parliamentary reading. The Croatian Parliament is expected to adopt the Bill in the course of 2003.

The Law on International Legal Assistance with the Execution of International Treaties in Criminal Matters is being drafted.

United Nations S/2003/455

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Original: English

Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 25 October 2002 (S/2002/1135) and its annex, a report from Saint Lucia submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully with the assistance of its experts and has written to the Permanent Representative of Saint Lucia to the United Nations to set out its preliminary comments. Saint Lucia has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-33688 (E) 300403

United Nations S/2003/456

Security Council

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24 April 2003

Original: English

Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 29 August 2002 (S/2002/972) and its annex, a supplementary report from Algeria submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Algeria to the United Nations to set out its preliminary comments. Algeria has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-33424 (E) 290403

United Nations S/2003/457

Security Council

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24 April 2003

Original: English

Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 7 October 2002 (S/2002/1137) and its annex, a supplementary report from Bangladesh submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Bangladesh to the United Nations to set out its preliminary comments. Bangladesh has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Security Council

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24 April 2003

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Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 24 October 2002 (S/2002/1192) and its annex, a supplementary report from Chile submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Chile to the United Nations to set out its preliminary comments. Chile has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-33448 (E) 290403

United Nations S/2003/459

Security Council

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24 April 2003

Original: English

Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 26 September 2002 (S/2002/1084) and its annex, a supplementary report from Colombia submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Colombia to the United Nations to set out its preliminary comments. Colombia has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-33454 (E) 290403

United Nations S/2003/460

Security Council

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23 April 2003

Original: English

Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 26 March 2002 (S/2002/1390/Add.1) transmitting a supplementary report from Italy submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Italy to the United Nations to set out its preliminary comments. Italy has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Security Council

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Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 12 December 2002 (S/2002/1369) transmitting a supplementary report from Jamaica submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Jamaica to the United Nations to set out its preliminary comments. Jamaica has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-33701 (E) 010503

United Nations S/2003/462

Security Council

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23 April 2003

Original: English

Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 4 December 2002 (S/2002/1334) transmitting a supplementary report from Malaysia submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Malaysia to the United Nations to set out its preliminary comments. Malaysia has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-33875 (E) 010503

United Nations S/2003/463

Security Council

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23 April 2003

Original: English

Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 18 September 2002 (S/2002/1045) transmitting a supplementary report from Myanmar submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Myanmar to the United Nations to set out its preliminary comments. Myanmar has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-33881 (E) 010503

United Nations S/2003/464

Security Council

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Original: English

Letter dated 23 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 3 October 2002 (S/2002/1136) transmitting a supplementary report from the Netherlands submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of the Netherlands to the United Nations to set out its preliminary comments. The Netherlands has been requested to provide a response in the form of a supplementary report by 11 July 2003.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-33887 (E) 010503

United Nations S/2003/465

Security Council

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Draft resolution

The Security Council,

Recalling its previous relevant resolutions, and in particular resolutions 661 (1990) of 6 August 1990, 986 (1995) of 14 April 1995, 1409 (2002) of 14 May 2002, 1454 (2002) of 30 December 2002, and 1472 (2003) of 28 March 2003, as they provide humanitarian relief to the people of Iraq,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that the provisions contained in paragraph 4 of resolution 1472 (2003) shall remain in force until 3 June 2003 and may be subject to further renewal by the Council;

2. *Decides* to remain seized of the matter.

03-33363 (E) 240403